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ZAMRZLA AND JEANETTE ZAMRZLA
(collectively "ZAMRZLAS")

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL DISTRICT

Coordinated Proceeding
Special Title (Rule 1550(b))

ANTELOPE VALLEY
GROUNDWATER CASES.

Judicial Council Coordination
Proceeding No.: 4408

LASC Case No. BC325201

Santa Clara Sup. Court Case No.: 1-05-CV 049053
Assigned to Hon. Jack Komar, Judge of the Santa
Clara County Superior Court

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF NOTICE
OF MOTION AND MOTION OF JOHNNY
ZAMRZLA, JOHNNY LEE ZAMRZLA AND
JEANETTE ZAMRZLA FOR STAY OF THE
PROCEEDINGS RELATING TO THEM
UNTIL THE PENDING APPEAL IS
RESOLVED**

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF NOTICE OF MOTION AND
MOTION OF JOHNNY ZAMRZLA, JOHNNY LEE ZAMRZLA AND JEANETTE ZAMRZLA FOR
STAY OF THE PROCEEDINGS RELATING TO THEM UNTIL THE PENDING APPEAL IS
RESOLVED

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This motion should be granted for at least any one of the following reasons with the November 17, 2023 hearing vacated as set by the Court through its Minute Order dated October 18, 2023:

(1) Good cause exists to grant this motion as pursuant to Code of Civil procedure section 916(a) in light of the filing of the notice of appeal of Johnny Zamrzla, Johnny Lee Zamrzla and Jeanette Zamrzla (collectively “Zamrzlas”) *automatically staying all trial court proceedings against them* in this matter;

(2) On equitable grounds, the court should stay any further proceedings against the Zamrzlas because the outcome of the appeal *significantly and directly relates to and affects the very rights at issue in this matter*, and as set forth in the Watermaster’s motion for injunctive and monetary relief (*i.e.*, extent of “damages” so to speak, when “liability”/threshold rights issues are on appeal); and

(3) In the interests of justice and to promote judicial efficiency, a stay is appropriate because the amount of water use (above and beyond the Small Pumper Class limit) is a disputed issue for which discovery through written and oral discovery including potential experts has not been completed. To proceed as the Watermaster requests, and the Court to date is allowing, would impose further injustice on the Zamrzlas to have the underlying Watermaster motion heard.

For several years now, the Zamrzlas have been fighting their alleged status as members of the Small Pumpers Class, which has cost them countless hours and a massive amount of money as called out in testimony earlier this year. The Settling Parties (as they refer to themselves) and Watermaster have vigorously opposed the Zamrzlas every step of the way, forcing lengthy and costly litigation, multiple hearings, and many hours of depositions.

While this Court found against the Zamrzlas and denied their motions to set aside or modify the 2015 Judgment and Physical Solution (“Judgment”), the Zamrzlas are appealing that order, and therefore, the issue is not yet resolved to address the relief sought by the Watermaster as a result of

1 the order being appealed. Any further proceedings against the Zamrzlas pursuant to the Judgment
2 would further impair their rights and obfuscate the process and record, impacting the current appeal
3 and potentially creating more of an appeal. One aspect that likely can be agreed to is that resolution
4 of the issues is desired; with that principle comes the necessity to follow our system of law and
5 process for jurisprudence for the Court of Appeal to address the precise issues from which the
6 Watermaster seeks its relief in this court.

7 If the action against the Zamrzlas is not stayed during the appeal, the Zamrzlas will be further
8 harmed financially as they will be required to undergo additional discovery and litigate the damages
9 against them before the Court of Appeal determines whether they are bound to the Judgment. While
10 the Zamrzlas will be harmed if a stay is not granted, the proposed stay will not harm the other parties.
11 Indeed, the stay benefits the parties by avoiding the expenditure of wasted time and resources on
12 further discovery, motion work and hearings on issues that may be moot if the Court of Appeal
13 reverses this Court’s ruling. In the interests of justice and to promote judicial efficiency, this Court
14 should stay the proceedings during the Zamrzlas’ pending appeal. Accordingly, the trial court
15 proceedings against the Zamrzlas must be stayed as a matter of law and/or equity so that the
16 proverbial cart is not placed ahead of the horse.

17 **II. STATEMENT OF RELEVANT FACTS**

18 On June 9, 2023, this Court issued its Order Denying Zamrzla’s Motion to Modify and
19 Vacate the Judgment. On the same date, a Notice of Entry of Order was filed and served on the
20 Zamrzlas. On July 3, 2023, the Zamrzlas filed a timely Notice of Appeal of the Court’s June 9, 2023
21 Order. (Declaration of Wesley Miliband [“Miliband Decl.”] at ¶ 2.) On July 12, 2023, the Notice of
22 Filing of the Notice of Appeal was filed. (Miliband Decl. at ¶ 3.)

23 **III. ARGUMENT**

24 **A. The Zamrzlas Filing of their Notice of Appeal Stays All Proceedings Against**
25 **Them in this Action**

26 Generally, the filing of a notice of appeal “divests the trial court of further jurisdiction in the
27 cause.” (*In re Estate of Waters* (1919) 181 Cal. 584, 585; *see generally Varian Medical Systems,*

1 *Inc. v. Delfino* (2005) 35 Cal.4th 180 [explicating Code Civ. Proc., § 916].) Code of Civil Procedure¹
2 section 916(a) sets forth the general rule that, except as provided in specified actions, all of which
3 are inapplicable here, ***“the perfecting of an appeal stays proceedings in the trial court upon***
4 ***judgment or order appealed from or upon matters embraced therein or affected thereby, including***
5 ***the enforcement of the judgment or order”*** ([Emphasis added]; see also *Marriage of Varner*
6 (1998) 68 Cal.App.4th 932, 936; *Daly v. San Bernardino County Bd. of Supervisors* (2021) 11
7 Cal.5th 1030, 1039 [“Today, Code of Civil Procedure section 916 continues to make stay pending
8 appeal the default, ...”].)

9 The purpose of the rule depriving the trial court of jurisdiction during a pending appeal is to
10 protect the appellate court’s jurisdiction by preserving the status quo until the appeal is decided.
11 (*Elsa v. Saberi* (1992) 4 Cal.App.4th 625, 629.) “The rule prevents the trial court from rendering
12 an appeal futile by altering the appealed judgment or order by conducting other proceedings that
13 may affect it. [Citation.]” (*Id.*) Whether a matter is “embraced” by the action or “affected” depends
14 upon the impact of the particular proceeding on the effectiveness of the appeal. A stay prevents the
15 trial court from rendering an appeal futile by conducting other proceedings that may affect it. (*Betz*.
16 *Pankow* (1993) 16 Cal.App.4th 931, 938.)

17 Here, any further proceedings against the Zamrzlas, specifically including the Watermaster’s
18 Motion for Monetary, Declaratory and Injunctive Relief (“Watermaster’s motion”), would
19 significantly impact the effectiveness of the appeal and jeopardize the Court of Appeal’s resources
20 and efforts to address the appeal. Specifically, as to the Watermaster’s motion, it seeks to enforce
21 the very judgment that the Zamrzlas are appealing. Indeed, the Watermaster’s renewed motion
22 concedes this by stating that the motion “sought this relief on the basis that the Zamrzlas are
23 members of the Small Pumper Class under the Judgment and subject to the Jurisdiction of this Court
24 ...” (Watermaster’s Renewed Motion at p. 2:17-18.) Accordingly, action on the Watermaster’s
25 motion, which seeks to impose damages against the Zamrzlas based on the Judgment would render
26 _____

27 ¹ Unless indicated otherwise, all statutory references are to the Code of Civil Procedure.

1 the appeal futile at the expense not only to the Zamrzlas but the Court of Appeals itself. As such,
2 the above legal authorities and underlying principles compel that proceedings against the Zamrzlas
3 in this matter be automatically stayed during the pending appeal.

4 **B. In the Interests of Justice and to Promote Judicial Efficiency, the Trial Court**
5 **Should Use its Inherent Power to Stay the Proceedings Against the Zamrzlas in**
6 **this Action**

7 A trial court has the inherent power to ensure the orderly administration of justice and to
8 promote judicial efficiency. (Code Civ. Proc., § 128.) “The power to stay proceedings is incidental
9 to the power inherent in every court to control the disposition of the causes on its docket with
10 economy of time and effort for itself, counsel, and for litigants.” (*Landis v. North American Co.*
11 (1936) 299 U.S. 248, 254; Code Civ. Proc., § 128.) This Court may exercise its discretion to stay
12 proceedings when the interests of justice require a stay. (*Avant! Corp. v. Superior Court* (2000) 79
13 Cal.App.4th 876, 885.) The court also has the statutory power to “stay the enforcement of any
14 judgment or order.” (Code Civ. Proc., § 918(a).) Accordingly, even if this Court finds that the filing
15 of the notice of appeal did not automatically stay the case as a matter of law, it should exercise its
16 discretion in favor of a stay. A stay of the proceedings during the appeal promotes judicial efficiency
17 and economy.

18 Determining whether to grant a motion to stay “calls for the exercise of judgment, which
19 must weigh competing interests and maintain an even balance.” (*Landis*, 299 U.S. at 254-255.)
20 These interests include: (1) the possible damage which may result from the granting of a stay; (2)
21 the hardship or inequity that a party may suffer in being required to go forward; and (3) the orderly
22 course of justice measured in terms of the simplifying or complicating of issues, proof, and questions
23 of law that could be expected to result from a stay. (*CMAX, Inc. v. Hall* (9th Cir. 1962) 300 F.2d
24 265, 268, citing *Landis*, 299 U.S. at 254-255.)

25 ***Here, all of the relevant factors tilt in favor of staying this action during the pendency of***
26 ***the Zamrzlas’ appeal.***

1 damages against the Zamrzlas. To avoid duplicative and wasted time and effort, the proceedings
2 against the Zamrzlas should be stayed.

3 **3. The Interests of Justice and Judicial Efficiency Favor a Stay**

4 If the action against the Zamrzlas is not stayed prior to a decision by the Court of Appeal,
5 this Court will be called on (has already been called on) to decide monetary damages and order an
6 injunction against the Zamrzlas. In order to decide the damages against the Zamrzlas, a further
7 evidentiary hearing will be required as there has not yet been such a hearing on the issues relating
8 to the quantity of water the Zamrzlas may be allowed to produce pursuant to the Judgment and the
9 monetary, injunctive and declaratory relief to which the Watermaster is claiming it is entitled to.
10 Indeed, on October 7, 2022, the Watermaster, Settling Parties and Zamrzlas stipulated that “[t]he
11 scope of issues for discovery and to be tried at the hearing [of the Zamrzlas’ motions] will be limited
12 to whether the Zamrzlas are bound by the Judgement and Physical Solution entered on December
13 28, 2015. ... All issues relating to the quantity of water the Zamrzlas’ may be allowed to produce,
14 if any, are deferred to a later hearing.” (Miliband Decl. at ¶ 4.)

15 Staying the action against the Zamrzlas now avoids a situation where the parties proceed to
16 litigate the damages against the Zamrzlas and the Court of Appeal later reverses this Court’s ruling
17 and finds that the Zamrzlas are not bound to the judgment. As such, staying the action against the
18 Zamrzlas serves the interests of justice.

19 Accordingly, in the interests of justice, this Court should exercise its inherent power of
20 discretion and stay the proceedings while the Court of Appeal considers whether the judgment
21 should have been modified or vacated against the Zamrzlas.

22 **C. The Zamrzlas May Petition for the Court of Appeal to Issue a Stay**

23 Demonstrating the law’s protection of parties such as the Zamrzlas in this type of procedural
24 scenario, the Zamrzlas have a legal right to seek relief directly from the Court of Appeal through a
25 writ of supersedeas from to maintain the status quo. (Code Civ. Proc., § 923.) An appellate court
26 may, in its discretion, issue a writ of supersedeas to stay, pending an appeal, the operation of an
27 order or judgment not otherwise stayed, if necessary or proper to the complete exercise of its

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PROOF OF SERVICE

(CODE CIV. PROC. § 1013A(3))

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action; my business address is 201 South Lake Avenue, Suite 300, Pasadena, California 91101-4869.

On October 20, 2023, I served the following document(s) described as **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF NOTICE OF MOTION AND MOTION OF JOHNNY ZAMRZLA, JOHNNY LEE ZAMRZLA AND JEANETTE ZAMRZLA FOR STAY OF THE PROCEEDINGS RELATING TO THEM UNTIL THE PENDING APPEAL IS RESOLVED** on the interested parties in this action as follows:

BY ELECTRONIC SERVICE: by posting the document(s) listed above to the Antelope Valley Groundwater Cases to all parties listed on the Santa Clara Superior Court Service List as maintained via Glotrans. Electronic service completed through <http://www.avwatermaster.org>.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 20, 2023, at Pasadena, California.



Ashlie T. Kennedy