

1 ATKINSON, ANDELSON, LOYA, RUUD & ROMO
2 A Professional Law Corporation
3 Wesley A. Miliband State Bar No. 241283
4 Wes.Miliband@aalrr.com
5 2151 River Plaza Drive, Suite 300
6 Sacramento, CA 95833
7 Telephone: (916) 923-1200
8 Fax: (918) 923-1222

9 Attorneys for Defendants JOHNNY ZAMRZLA,
10 PAMELLA ZAMRZLA, JOHNNY LEE
11 ZAMRZLA AND JEANETTE ZAMRZLA
12 (collectively "ZAMRZLAS")

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

15 Coordinated Proceeding
16 Special Title (Rule 1550(b))

17 ANTELOPE VALLEY
18 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

**OBJECTION/OPPOSITION TO
WATERMASTER'S RENEWED MOTION
FOR MONETARY, DECLARATORY AND
INJUNCTIVE RELIEF AGAINST
ZAMRZLAS AND REQUEST FOR
HEARING; DECLARATION OF WESLEY A.
MILIBAND**

19
20 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:**

21 Johnny Zamrzla, Johnny Lee Zamrzla and Jeanette Zamrzla (collectively "Zamrzlas")
22 hereby submit this Objection/Opposition to the Watermaster's Renewed Motion for Monetary,
23 Declaratory or Injunctive Relief and Request for Hearing. This matter is stayed pending appeal.
24 Accordingly, this court lacks jurisdiction to set a hearing and/or rule on the Watermaster's motion.¹

25
26
27 ¹ The Zamrzlas recognize the court has set a hearing for November 17, 2023. The Zamrzlas will be filing a separate
28 Motion to Stay. However, the Zamrzlas also request herein that if the court's position is that this matter is not
automatically stayed, the court exercise its inherent power to stay this matter during the pending appeal.

1 **I. THIS MATTER IS AUTOMATICALLY STAYED DURING THE PENDING**
2 **APPEAL**

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

8 Generally, the filing of a notice of appeal “divests the trial court of further jurisdiction in the
9 cause.” (*In re Estate of Waters* (1919) 181 Cal. 584, 585; *see generally Varian Medical Systems,*
10 *Inc. v. Delfino* (2005) 35 Cal.4th 180 [explicating Code Civ. Proc., § 916].) Code of Civil Procedure²
11 section 916(a) sets forth the general rule that, except as provided in specified actions, all of which
12 appear inapplicable here, “the perfecting of an appeal stays proceedings in the trial court upon
13 judgment or order appealed from or upon matters embraced therein or affected thereby, including
14 the enforcement of the judgment or order” (*See also Marriage of Varner* (1998) 68 Cal.App.4th
15 932, 936; *Daly v. San Bernardino County Bd. of Supervisors* (2021) 11 Cal.5th 1030, 1039 [“Today,
16 Code of Civil Procedure section 916 continues to make stay pending appeal the default, ...”].)

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

25 Here, proceeding on the Watermaster’s Motion for Monetary, Declaratory and Injunctive
26 Relief would impact the effectiveness of the appeal as it seeks to enforce the very judgment that the
27 _____

28 ² Unless indicated otherwise, all statutory references are to the Code of Civil Procedure.

1 Zamrzlas are appealing. Indeed, the Watermaster’s motion concedes this. It states that the motion
2 “sought this relief on the basis that the Zamrzlas are members of the Small Pumper Class under the
3 Judgment and subject to the Jurisdiction of this Court ...” (Watermaster’s Renewed Motion at p.
4 2:17-18.) Accordingly, action on the Watermaster’s motion, which seeks to impose damages against
5 the Zamrzlas based on the judgment would render the appeal futile.

6 Notably, the filing of the Watermaster’s motion itself contradicts the Watermaster’s
7 contention that the judgment is self-executing and, thus, not automatically stayed. A judgment is
8 self-executing if it requires no process for enforcement. (*Veyna v. Orange County Nursery, Inc.*
9 (2009) 170 Cal.App.4th 146, 156.) However, the Watermaster’s motion is its process in enforcing
10 the judgment against the Zamrzlas. The judgment is not self-executing.

11 Moreover, contrary to the Watermaster’s contention, enforcement of the underlying
12 judgment is stayed in this matter for the reasons set forth above. The cases relied on by the
13 Watermaster involve money judgments and bonds that are distinguishable from the facts of this
14 case.

15 Finally, the dialogue between the parties and this Court during the March 4, 2022 hearing
16 does not restore this court’s jurisdiction during the pending appeal. While the court denied the
17 Zamrzlas’ motion to modify or vacate the judgment, the dispute regarding the Zamrzlas’ status as
18 members of the small pumper class and whether they are subject to the judgment has not been
19 resolved as the Zamrzlas’ are appealing that order and judgment. The outcome of the appeal may
20 directly affect the matters before this court. Accordingly, this matter is stayed during the pending
21 appeal and the court should deny the Watermaster’s request for a ruling on its renewed motion.

22 **II. ALTERNATIVELY, THIS COURT HAS DISCRETION TO STAY THE MATTER**
23 **DURING THE PENDING APPEAL**

24 A trial court has the inherent power to ensure the orderly administration of justice and to
25 promote judicial efficiency. (Code Civ. Proc., § 128.) “The power to stay proceedings is incidental
26 to the power inherent in every court to control the disposition of the causes on its docket with
27 economy of time and effort for itself, counsel, and for litigants.” (*Landis v. North American Co.*
28 (1936) 299 U.S. 248, 254; Code Civ. Proc., § 128.) This court may exercise its discretion to stay

1 proceedings when the interests of justice require a stay. (*Avant! Corp. v. Superior Court* (2000) 79
2 Cal.App.4th 876, 885.) The court also has the statutory power to “stay the enforcement of any
3 judgment or order.” (Code Civ. Proc., § 918(a).) Accordingly, even if this court finds that the filing
4 of the Notice of Appeal did not automatically stay the case as a matter of law, it should exercise its
5 discretion in favor of a stay. A stay of the proceedings during the appeal promotes judicial efficiency
6 and economy.

7 Here, a hearing on the Watermaster’s motion during the pending appeal would be premature
8 and unduly and severely harmful to the Zamrzlas for the hundreds of thousands of dollars sought by
9 the Watermaster’s requested relief based on the precise issues pending on appeal. It would also be
10 prejudicial to the parties. While the Watermaster is correct that an Opposition and Reply has already
11 been filed on its motion, there has been no evidentiary hearing on the issues relating to the quantity
12 of water the Zamrzlas may be allowed to produce pursuant to the judgment and the monetary,
13 injunctive and declaratory relief to which the Watermaster is claiming it is entitled to. Indeed, on
14 October 7, 2022, the Watermaster, Settling Parties and Zamrzlas stipulated that “[t]he scope of
15 issues for discovery and to be tried at the hearing [of the Zamrzlas’ motions] will be limited to
16 whether the Zamrzlas are bound by the Judgement and Physical Solution entered on December 28,
17 2015. ... All issues relating to the quantity of water the Zamrzlas’ may be allowed to produce, if
18 any, are deferred to a later hearing.” (Miliband Decl. at ¶ 4.)

19 The Watermaster’s renewed motion appears to assume or suggest that this court will merely
20 rubberstamp its motion. However, even assuming arguendo that the Zamrzlas are members of the
21 Small Pumpers Class and are bound to the judgment (they maintain they are not, and this issue
22 remains disputed), the amounts the Watermaster claims the Zamrzlas owe are not correct.
23 Accordingly, if the Court proceeds with the hearing on the Watermaster’s motion, the parties will
24 be required to undergo further discovery and litigation *prior* to a final determination as to whether
25 the Zamrzlas are even bound to the judgment.

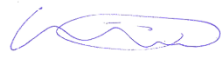
26 Additionally, while the Watermaster claims it “will agree not to seek to enforce the money
27 judgment against the Zamrzlas during the pendency of the appeal,” (Renewed Motion at p. 6:17-19)
28 it still seeks “declaratory and injunctive relief ... to prohibit the Zamrzlas from producing any further

1 groundwater from the Basin until all such delinquent 2018 RWAs with interest and fees are paid in
2 full, the Zamrzlas each install water flow meters on all of their respective wells, submit Annual
3 Water Production Reports for years 2016 through 2020, and pay RWAs and Administrative
4 Assessments (“AAs”) for their respective annual production for the years 2016 through 2020, plus
5 accrued interest thereon.” (Renewed Motion at p. 2:11-16.) As stated above, this would require the
6 Zamrzlas to not only undergo further discovery but fully litigate their liability under the judgment
7 prior to a final determination as to whether they are bound to the judgment in the first place. If the
8 appeal is granted, the parties would have wasted time and resources on a moot issue.

9 Equity and the fair and orderly administration of justice requires that this matter be stayed
10 during the appeal of this matter. A stay of this matter also promotes judicial efficiency and economy.
11 To allow the Watermaster’s motion to proceed without the related appeal resolved would result in a
12 gross miscarriage of justice. Accordingly, the Court should deny the Watermaster’s request for a
13 ruling on its motion and vacate the November 17, 2023 hearing.

14 Dated: October 20, 2023

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

15 By: 
16 _____
17 Wesley A. Miliband
18 Attorneys for Defendants JOHNNY ZAMRZLA,
19 PAMELLA ZAMRZLA, JOHNNY LEE
20 ZAMRZLA AND JEANETTE ZAMRZLA
21 (collectively “ZAMRZLAS”)
22
23
24
25
26
27
28

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
201 SOUTH LAKE AVENUE, SUITE 300
PASADENA, CALIFORNIA 91101-4869
TELEPHONE: (626) 583-8600
FAX: (626) 583-8610

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

(CODE CIV. PROC. § 1013A(3))

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

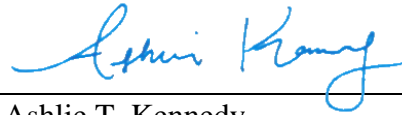
I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action; my business address is 201 South Lake Avenue, Suite 300, Pasadena, California 91101-4869.

On October 20, 2023, I served the following document(s) described as **OBJECTION/OPPPOSITION TO WATERMASTER'S RENEWED MOTION FOR MONETARY, DECLARATORY AND INJUNCTIVE RELIEF AGAINST ZAMRZLAS AND REQUEST FOR HEARING; DECLARATION OF WESLEY A. MILIBAND** 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