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14 ZAMRZLA AND JEANETTE ZAMRZLA
15 (collectively "ZAMRZLA'S")

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

18 Coordinated Proceeding
19 Special Title (Rule 1550(b))

20 ANTELOPE VALLEY
21 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

**REPLY TO WATERMASTER'S
OPPOSITION TO ZAMRZLAS' MOTION TO
STAY PROCEEDINGS AGAINST THEM
PENDING APPEAL**

Date: November 17, 2023
Time: 9:00 a.m.
Dept.: Court Call

22 Johnny Zamrzla, Johnny Lee Zamrzla and Jeanette Zamrzla (collectively "Zamrzlas")
23 hereby submit this Reply to the Watermaster's Opposition to the Zamrzlas' Motion to Stay
24 Proceedings Against Them Pending Appeal.

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1 **REPLY MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 The Watermaster’s mischaracterization of the events and procedural history of the action
4 against the Zamrzlas demonstrates that it does not have a legitimate or substantive ground to oppose
5 the Zamrzlas’ motion and the stay in this matter. Since the Zamrzlas became aware of the action
6 against them, they have diligently defended their case, which is their legal right to do, and which
7 they were originally denied when they were not given notice of the action and were improperly
8 classified as members of the Small Pumper Class. Accordingly, while the Watermaster egregiously
9 claims the Zamrzlas are merely avoiding their obligation under the Judgment, the Zamrzlas are only
10 pursuing the proper procedural mechanisms they are legally entitled to do.

11 For the reasons set forth below and the Zamrzlas’ motion, a stay of the proceedings against
12 the Zamrzlas is proper and necessary in the interests of justice.

13 **II. PROCEEDINGS AGAINST THE ZAMRZLAS ARE STAYED PURSUANT TO**
14 **CODE OF CIVIL PROCEDURE SECTION 916**

15 Pursuant to Code of Civil Procedure¹ section 916, subdivision (1),

16 [e]xcept as provided in Sections 917.1 to 917.9, inclusive, and in Section 116.810,
17 the perfecting of an appeal stays proceedings in the trial court upon the judgment or
18 order appealed from or upon the matters embraced therein or affected thereby,
19 including enforcement of the judgment or order, but the trial court may proceed upon
20 any other matter embraced in the action and not affected by the judgment or order.

21 The Watermaster has not provided any argument on the applicability of section 916 to the
22 specific facts and procedural history of this case. It provides no argument to the issue whether
23 proceeding on its motion against the Zamrzlas will impact the effectiveness of the appeal. Rather,
24 the Watermaster quotes language taken out of context from *People v. American Surety Co.* (2019)
25 31 Cal.App.5th 380, 393 (“*American Surety*”), a case with facts and a procedural history
26 distinguishable from the Zamrzlas’ situation.

27 *American Surety* involved an appeal from a post-judgment order denying a motion to vacate
28 summary judgment and exonerate a bail bond. It discussed the applicability of section 917.1 when

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

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1 the appeal is to the post-judgment order. Unlike the Zamrzlas’ case, there were no due process or
2 notice issues relating to the underlying judgment in *American Surety* that would make the appeal to
3 the trial court’s order denying the motion an appeal to the judgment, as well. (See *Kalenian v. Insen*
4 (2014) 225 Cal.App.4th 569, 577-578; *Estate of Baker* (1915) 170 Cal. 578, 582-583.)

5 Similarly, *Miller v. Gross* (1975) 48 Cal.App.3d 608, to which the Watermaster also cites,
6 is also distinguishable in that it, too, involves the denial of a motion to vacate a money judgment
7 and the applicability of section 917.1. Here, the Zamrzlas maintain that the proceedings against
8 them is stayed pursuant to section 916(1). The issues on appeal relate not only to the Zamrzlas’
9 notice of the class action and judgment, but whether they are even proper members of the class.
10 Proceeding on the Watermaster’s motion would impact the effectiveness of the appeal.
11 Accordingly, this matter is automatically stayed under section 916(1).

12 **III. THE PROCEEDINGS AGAINST THE ZAMRZLAS SHOULD BE STAYED IN THE**
13 **INTERESTS OF JUSTICE AND JUDICIAL EFFICIENCY**

14 The Watermaster claims that it would suffer “unfair prejudice if the Court grants the
15 requested stay[.]” (Opposition at p. 4.) The Zamrzlas maintain that the proceedings against them
16 is automatically stayed under section 916(1). There is no requirement that the Zamrzlas establish
17 lack of prejudice because the stay of the trial court’s jurisdiction is automatic in this case.

18 However, even if appropriate for this Court to exercise discretion to grant a stay, and the
19 Court were to weigh the parties’ competing interests, the Watermaster does not present any actual
20 prejudice that it would suffer should a stay be granted in this matter. Rather, it merely presents a
21 hypothetical scenario of an additional eighteen-month or total thirty-six months delay on appeal
22 should the Court stay the matter and not rule on the Watermaster’s motion on November 17, 2023.
23 But still, the Watermaster does not state how it would be prejudiced from such a delay. As to
24 Zamrzlas, the prejudice resulting from no stay is real and significant.

25 The Watermaster also fails to address the specific harm to the Zamrzlas if the matter is not
26 stayed and the Court proceeds with hearing the Watermaster’s motion. (Zamrzlas’s Motion for Stay,
27 at pp. 6-7.) Again, as its Opposition and renewed motion suggests, the Watermaster expects the
28 Court will simply grant its motion based on the pleadings and without a hearing on the issues relating

1 to the quantity of water the Zamrzlas may be allowed to produce pursuant to the judgment and the
2 monetary, injunctive and declaratory relief to which the Watermaster is claiming it is entitled to.
3 The Watermaster now claims in Opposition that its renewed motion only seeks the 2018 RWAs
4 based on the Zamrzlas' self-reported pumping records. (Opposition at p. 5.) However, the
5 Watermaster's renewed motion requests much more than the 2018 RWAs.

6 Specifically, the Watermaster seeks an order to prohibit the Zamrzlas "from producing any
7 further groundwater from the Basin until all [] delinquent 2018 RWAs with interest and fees are
8 paid in full," and an order for the "Zamrzlas [to] each install water flow meters on all of their
9 respective wells, [as well as] submit Annual Water Production Reports for years 2016 through 2020,
10 and pay RWAs and Administrative Assessments ("AAs") for their respective annual production for
11 the years 2016 through 2020, plus accrued interest thereon." (Renewed Motion at pp. 2:11-16.)
12 Accordingly, contrary to what it now claims in Opposition, the Watermaster's renewed motion
13 requires this Court to rule on numbers and amounts that have not been litigated and indeed require
14 further discovery including potentially evidence from one or more experts. A hearing or ruling on
15 the motion would, thus, be premature and would unduly prejudice the Zamrzlas.

16 Moreover, with its renewed motion, the Watermaster also improperly seeks attorneys' fees.
17 Any claim for attorneys' fees must be considered separately because fees are not damages. A
18 request for attorneys' fees requires a specific process for which the Watermaster has not undertaken.
19 Therefore, should the Court proceed to rule on the Watermaster's motion, it should deny the request
20 for attorneys' fees as improper, deny the motion for monetary, declaratory or injunctive relief or
21 defer any ruling until after the Court of Appeal has decided the issue as the Zamrzlas' status under
22 the judgment.

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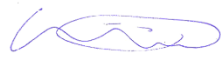
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IV. CONCLUSION

For the reasons set forth above, the Zamrzlas respectively move his Court to stay the proceedings against them pending resolution of their appeal.

Dated: November 9, 2023

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

By: 

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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 November 9, 2023, I served the following document(s) described as **REPLY TO WATERMASTER'S OPPOSITION TO ZAMRZLAS' MOTION TO STAY PROCEEDINGS AGAINST THEM PENDING APPEAL** 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 November 9, 2023, at Pasadena, California.



Ashlie T. Kennedy