

LAW OFFICES
OF
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Hon. Judge Jack Komar
Santa Clara County Superior Court
Records Division
191 North First Street
San Jose, CA 95113

January 8, 2013

Re: **ANTELOPE VALLEY GROUNDWATER CASES**
Judicial Council Coordination Proceedings No. **4408**
Santa Clara Case No.: **1-05-CDV-049053**

Dear Judge Komar:

Pursuant to your Case Management Order For Phase 4 Trial dated December 12, 2012, on January 3, 2013, I e-filed on the court's website the Blum Trust Non-Expert Witness List, attached as Exhibit "A", herein, which identified under Evidence Code §776, the names of three (3) of Wm. Bolthouse Farms Inc's employees, the subject matter and a brief description of their testimony to be offered at deposition and trial.

The individual's names and employment titles of the most knowledgeable employed persons at Wm. Bolthouse Farms to establish the Blum Trust's case in chief are 'Irrigation Department Manager' Mr. **Daniel Wilke**; Lancaster Ranch Manager Mr. **Steve Rodrigues**; and 'Agriculture Property Manager' Mr. **Michael Kovacevich**. I further stated that their deposition availability was TBD. (i.e. "To Be Determined").

Immediately thereafter, I attempted to contact Mr. Richard Zimmer by telephone to obtain deposition dates for their availability, however I had to leave a voice mail. I confirmed my telephone message by letter to Mr. Zimmer dated January 3, 2013, which is attached as Exhibit "B", herein.

As directed by this Court's Order, on January 7, 2013, the parties conducted a telephone conference regarding setting the depositions of the designated non-expert and expert witnesses. During the telephone conference Mr. Zimmer refused to stipulate to schedule the above-referenced depositions, and therefore I advised him that I would call him that afternoon to 'meet and confer'. We subsequently did so without success.

In accordance with "Due Process", Blum Trust's 'Witness List' sets forth the depositions and ultimate trial witnesses of the most knowledgeable employed persons at Wm. Bolthouse Farms, who are to provide evidentiary support at this court's Phase 4

'Prove-Up Evidentiary Hearing' to establish the volume, sources and duration of the groundwater extracted by former Lessee Wm. Bolthouse Farms, Inc. for the beneficial and reasonable agriculture use on former Lessor Blum Trust leased parcels during the relevant lease term of 2001 through 2009.

None of the depositions are being set for any improper purpose, nor to cause unnecessary delay or increase in the cost of the litigation. Furthermore, the information is exclusively known to Wm. Bolthouse Farms, Inc, and cannot be independently obtained by Mr. Blum through alternative sources.

Based on the foregoing, it is respectfully requested that this court order the scheduling of the above-stated depositions on either January 23, 2013, and/or January 24, 2013, as both Mr. Zimmer and I will already be in Los Angeles attending other depositions.

Respectfully submitted,


SHELDON R. BLUM, Esq.

Cc: Richard Zimmer, Email Only
Enclosures

☐ Petitioner ☐ Respondent ☒ Other intends to call the following witnesses to testify
at the time of ☐ hearing or ☒ trial scheduled on (date): February 11, 2013

Name	Subject and Brief Description of Testimony
Daniel Wilke, Depo Avail. TBD	Mr. Daniel Wilke is the Irrigation Department Manager for Wm. Bolthouse Farms, who drafted 3 Declarations with calculations and worksheets on the volume of Ac. Ft. of groundwater beneficially and reasonably used for irrigating and harvesting Lessee Bolthouse's carrots and onions on the Blum Trust leased parcels.
Steve Rodrigues, Depo Avail. TBD	Mr. Steve Rodrigues is the Lancaster Ranch Manager for Wm. Bolthouse Farms who was directly involved with the construction and operation of the groundwater pipeline delivery system from Bolthouse's 2 parcels onto the Blum Trust leased parcels. Mr. Rodrigues also met with Mr. Blum on site on 10/22/09 to view parcels
Michael Kovacevich, Dep Avail. TBD	Mr. Michael Kovacevich is the Ag. Properties Manager for Wm. Bolthouse Farms who communicated with Mr. Blum regarding Bolthouse's groundwater pipeline delivery system and groundwater Ac. Ft. usage. He also drafted Blum Trust's parcel map that identified the severed pipes from 2 parcels at the end of the term.
Sheldon Blum, Dep Avail. 1/22-31/13	Mr. Sheldon Blum will testify regarding former lessee Wm. Bolthouse Farms' groundwater usage in irrigating and harvesting its carrots and onions on the Blum Trust leased parcels during the lease term; the intent, consideration and terms of the lease agreement; photographs taken of the leased parcels; & rebuttal issues.

EXHIBIT "A"

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VIA FACSIMILE & US MAIL

January 3, 2013

Richard G. Zimmer, Esq.
Clifford & Brown
1430 Truxtun Avenue, Suite 900
Bakersfield, CA 93301-5230

Re: **ANTELOPE VALLEY GROUNDWATER CASES**
Judicial Council Coordination Proceeding No. 4408

Dear Mr. Zimmer:

Pursuant to the court's Case Management Order For Phase 4 Trial dated December 12, 2012, the Blum Trust's Non-Expert Witness Disclosure Statement filed this date, and Evidence Code §776, this morning I attempted to contact you by telephone to schedule the deposition testimony of Wm. Bolthouse Farms, Inc, employees, namely Mr. Daniel Wilke, Irrigation Department Manager; Mr. Steve Rodrigues, Lancaster Ranch Manager; and Michael Kovacevich, Agriculture Properties Manager.

Since you were unavailable I left you with a voice mail regarding these matters and suggested one (1) day time-frame, anytime during the week of January 22 through 31, 2013, to be held in an office most convenient to the witnesses, such as your law office. I will be out of state on a client legal matter from January 14, 2013, through January 21, 2013.

Please immediately advise me in writing of their availability so that I can notify the parties and their attorneys of the date, time and location as soon as circumstances permit.

I also will be present for the deposition testimony of both Anthony L. Leggio and/or Tracy M. Saiki, who signed the Discovery Verifications on behalf of Bolthouse Properties, LLC and Wm. Bolthouse Farms, Inc.

Thank you in advance for your prompt attention to this matter.

Sincerely yours


SHELDON R. BLUM, Esq.

EXHIBIT "B"