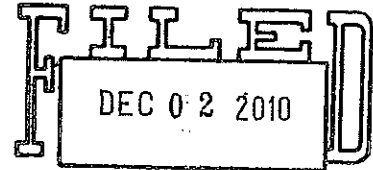


COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER



COURT OF APPEAL FOURTH DISTRICT

NONAGRICULTURAL POOL
(OVERLYING) COMMITTEE et al.,
Plaintiffs and Appellants,

E051653

(Super. Ct. No. RCVRS51010)

v.

The County of San Bernardino

CHINO BASIN WATERMASTER et al.,
Defendants and Respondents.

THE COURT

Pursuant to this court's order filed November 22, 2010, the parties are notified of **a settlement conference scheduled to be held Wednesday, January 26, 2011, at 9:30 a.m.** The conference will be held at the State Court of Appeal, 3389 Twelfth Street, Riverside, California. The date and time have been selected for the convenience of the mediator--no continuance of the conference will be considered except upon a showing of good cause served and filed at least 15 days prior to the date of the conference. (See Local Rules of the California Courts of Appeal, Fourth District, Division Two, local rule 4(f)(2), (3).)

Counsel are DIRECTED to read the enclosed Settlement Conference Procedure and to advise and inform his or her client of the rules and procedures described. A failure of a party and/or the party's counsel to comply with any of the requirements set forth in this notice is punishable by sanctions as determined at a subsequent order to show cause hearing.

RAMIREZ
Presiding Justice

cc: See attached list ✓

Enclosure

COPY

SETTLEMENT CONFERENCE PROCEDURE

All parties **and** their counsel of record are **required** to **personally** attend the Settlement Conference. Counsel may **not** have other counsel specially appear on their behalf. The personal attendance of an insurance adjuster is **required** where the party is relying upon insurance proceeds to settle the case.

If in counsel's opinion the attendance of his or her client is impractical, counsel **shall** serve and file with the clerk of this court at least 15 days prior to the conference, a written request showing a good cause for the client's attendance to be excused. A **non-corporate party** requesting to be excused must sign and attach to the request (1) a written authorization granting to counsel full settlement authority to negotiate and bind the party to a settlement agreement without further approval by the client or (2) promise to be available by telephone during the entire period the Settlement Conference is in session.

A **corporate party**, including a corporation or governmental body, is considered to be its **board of directors or other governing board** and all board members **must personally** attend. If in counsel's opinion the attendance of the governing board is impractical, at least 15 days prior to the conference, counsel shall serve and file a written request to excuse the personal attendance of all board members. Counsel must attach to the request an authorization by the governing board granting to a governing board member or high-ranking executive full settlement authority. This authority may be subject only to final approval by the board of directors or governing body. The authorized member or executive **must personally** attend the conference. The court will order all members of the entity's governing board to appear if necessary to assure meaningful settlement discussions. (See Local Rules of the California Courts of Appeal, Fourth District, Division Two, local rule 4(f)(6); *Sigala v. Anaheim City School Dist.* (1993) 15 Cal.App.4th 661.)

A settlement may take the form of a stipulated court of appeal opinion or dismissal of the appeal. The dismissal alternative leaves the judgment or order appealed in effect, subject to the settlement agreement. If the agreement is breached, any party may bring an action in the superior court to enforce the agreement by an action for breach of contract. Where the parties do not want to leave the existing judgment or order intact, they may stipulate or move to reverse, modify and affirm, or any number of possible dispositions. A copy of the original settlement agreement must be attached to the stipulation or motion, and may be attached to the short opinion the court will file setting forth the requested disposition. The mediator and/or the court's principal attorney will be available to answer any questions that may arise concerning the two alternatives. (See Code Civ. Proc., §128, subd.(a)(8); *Neary v. Regents of University of California* (1992) 3 Cal.4th 273.)

In either alternative, the parties should stipulate as to who pays the costs on appeal -- the parties usually stipulate to bear their own cost. (See Cal. Rules of Court, rule 8.276.) The parties may also stipulate to have the immediate issuance of the remittitur. (Cal. Rules of Court, rule 8.272(c)(1).) Unless otherwise arranged, the court will expect the motion or stipulation to be served and filed within 15 days of the conference at which the settlement is agreed upon.

CHINO BASIN WATERMASTER

Case No. RCV 51010

Chino Basin Municipal Water District v. The City of Chino

PROOF OF SERVICE

I declare that:

I am employed in the County of San Bernardino, California. I am over the age of 18 years and not a party to the within action. My business address is Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On December 6, 2010 I served the following:

**1. 20101206 COURT OF APPEAL ORDER SETTING TIME AND ATTENDANCE
REQUIREMENTS REGARDING SETTLEMENT CONFERENCE**

☒ BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:

See attached service list: Mailing List 1

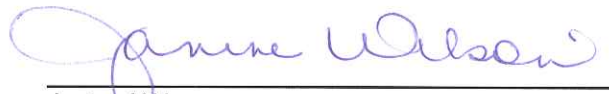
☐ BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

☐ BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the fax number(s) indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting fax machine.

☒ BY ELECTRONIC MAIL: I transmitted notice of availability of electronic documents by electronic transmission to the email address indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting electronic mail device.

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

Executed on December 6, 2010 in Rancho Cucamonga, California.



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