

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

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CHINO BASIN MUNICIPAL WATER)
DISTRICT CHINO BASIN)
WATERMASTER, CALIFORNIA STEEL)
INDUSTRIES, ET AL.,)

Plaintiff,)

- vs -)

CASE NO.: RCVRS51010)

CITY OF CHINO, CITY OF POMONA,)
ET AL.,)

Defendants.)

**REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS: MOTION RE:
CONFIRM POST-JUDGEMENT ORDERS AND ENFORCE**

BEFORE HONORABLE STANFORD E. REICHERT, JUDGE
DEPARTMENT C-1
CHINO, CALIFORNIA
FRIDAY, JULY 20, 2012

APPEARANCES:

For the PLAINTIFFS:

CHINO BASIN WATER DISTRICT
WATERMASTER

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Reported by:

Lavender Lino, CSR,
Pro Tem Reporter
CSR No. 13046

Partial Transcript.
Pages 1 through 10, incl.

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CHINO, CALIFORNIA; FRIDAY, JULY 20, 2012;

A.M. SESSION

DEPARTMENT C-1

HONORABLE STANFORD E. REICHERT

APPEARANCES:

Counsel for CHINO BASIN MUNICIPAL WATER DISTRICT & CHINO BASIN WATERMASTER, BRADLEY J. HERREMA, Attorney at Law; Counsel for CALIFORNIA STEEL INDUSTRIES, CHRISTOPHER M. PISANO; Counsel for AQUA CAPITAL, DAVID S. MCLEOD, Attorney at Law, and JOHN P. FLYNN (Present), Attorney at Law.

(Lavender Lino, C.S.R, Pro Tem Reporter, CSR No. 13046)

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(Whereupon the following proceedings were held in open court:)

THE COURT: Okay. We're on the record in the Watermaster Case. This is RCVRS51010. We're here for a motion by California Steel Industry. And let me get everybody's appearances on the record. First, for the moving parties, California Steel Industries?

MR. PISANO: Good afternoon, your Honor. Christopher Pisano, Best, Best & Krieger, on behalf of California Steel Industries.

THE COURT: All right. Thank you, Mr. Pisano.

1 And for ACM?

2 MR. MCLEOD: Yes. Good morning, your Honor.
3 David McLeod, M-C-L-E-O-D, on behalf of Aqua Capital
4 Management.

5 THE COURT: And we had a joinder by Watermaster.

6 MR. HERREMA: Good morning, your HONor.
7 Brad Herrema on behalf of Chino Basin Municipal Water
8 District.

9 THE COURT: Is that H-E-R-R-A-M-A?

10 MR. HERREMA: Sorry, H-E-R-R-E-M-A.

11 THE COURT: Got it. Okay. Herrrema. Okay.
12 Thank you.

13 All right. The Court has prepared and issued a
14 tentative ruling in this matter, and counsels all had an
15 opportunity to review that. Is that correct,
16 Mr. Pisano?

17 MR. PISANO: Yes, your Honor.

18 THE COURT: Is that true, Mr. Mcleod?

19 MR. MCLEOD: Yes, your Honor.

20 THE COURT: Mr. Herrema?

21 MR. HERREMA: Yes, your Honor.

22 THE COURT: Thank you.

23 Let me just request counsel, again, to please
24 not reargue the matters that they submitted in
25 paperwork. As always, I've spent hours reviewing this
26 personally and have come to the conclusions I've come to

1 based on arguments and of my thorough review of all the
2 papers that were submitted on both sides of this. It
3 was well argued on both sides. And I've analyzed it for
4 the purposes of the tentative, which I've issued. If
5 there is additional arguments you'd like to make, I
6 certainly will hear it. But I would request, again, not
7 to repeat yourself, because I thought carefully about
8 everything and reviewed everything up to the period of
9 time leading up to today.

10 So, Mr. Pisano, if you have any additional
11 argument, feel free to go ahead.

12 MR. PISANO: Thank you, your Honor. And I
13 appreciate the Court issuing a tentative. I think that
14 it does help frame the argument, and I will do my best
15 to limit my argument to addressing some of the points in
16 the tentative, so that I'm not retreading what's already
17 in the papers.

18 THE COURT: Appreciate it. Thank you.

19 MR. PISANO: In looking at the tentative, your
20 Honor, a couple of things jump out at me.

21 THE COURT: Okay.

22 MR. PISANO: I don't believe that what CSI is
23 doing, here, today, is seeking some new declaration of
24 rights with respect to these water rights. We're really
25 here asking for re-confirmation of what the Court
26 previously ordered back in 1995 and 2001, and that is,

1 that we have a joint tenancy interest. The 2009 order
2 where the Court approved the intervention of Aqua
3 doesn't say that, but it doesn't not say that either.
4 It just sort of says, Aqua is hereby approved for
5 intervention. With that said, your Honor, all we're
6 asking this Court to do, in this case, is reconfirm the
7 prior orders, which is that CSI has a joint tenancy
8 interest in this water right. So, I think, with regards
9 to the tentative in point Number 1, it says, "Judgment,
10 Paragraph 15 does not require the Court to make a
11 declaration of rights. That's not really the thrust of
12 this motion.

13 Let me also keep going down. With regards to
14 the exception to the judgment, again, I think that fits
15 within the same argument. We're not here before this
16 Court, today, arguing over who gets what from this --
17 from these rights. We're not saying it's a different
18 number than 630 acre feet, or anything like that. All
19 CSI is doing here, today, is saying, we confirm what
20 you've already confirmed in the past, which is that we
21 have the joint tenancy interest.

22 Getting to Point C, your Honor, where the Court
23 says, "Therefore, the Court finds that whether CSI has a
24 joint ownership interest in the right of ACM to be a
25 determination of specific quantitative rights." But,
26 again, though, that's not we are asking. We're not

1 asking this Court to declare that we have a brand new
2 joint tenancy interest. We're not asking for anything
3 new, here, in other words.

4 THE COURT: Okay. I understood that.

5 MR. PISANO: Okay. Turning and -- okay. It
6 also appears, your Honor, that the Court had concerns
7 with not overstepping its bounds in this case and
8 asserting influence in the quiet title action, which is
9 before Judge Ochoa. I don't believe that the relief we
10 have requested in any way tramples upon or invades the
11 quiet title action that is before Judge Ochoa. The
12 quiet title action will play out how it's going to play
13 out. And ACM has their theories to quiet title and CSI
14 has its defenses and it's affirmative defenses. And
15 that will all play out before Judge Ochoa. The issues
16 of res judicata and collateral estoppel, though, they
17 are not really applicable here, because, again, it gets
18 back to what we're asking this Court to do, which is
19 really limited solely to what's going on in this court,
20 which is to reconfirm what this Court has already done.

21 I'd like to also make a point regarding the
22 Watermaster's joinder, which we received yesterday --

23 THE COURT: Same here.

24 MR. PISANO: -- and had a chance to review.

25 THE COURT: Also, same here.

26 MR. PISANO: And CSI agrees with the joinder and

1 thinks that the Watermaster has articulated quite well
2 what happened in 2009, which is that -- or, I'm sorry --
3 or, no, in 2009, which was that Watermaster has
4 processed and recorded a transfer of the interest held
5 by CCG to ACM. In other words, when ACM intervened, the
6 only thing they intervened as was the owner who stepped
7 into the shoes of CCG, meaning the owner of a joint
8 tenancy interest. We agree with that. And we think
9 this Court has the jurisdiction, has the ability, and
10 should clarify that right now in this court, in this
11 adjudication, that CSI and ACM hold this right as joint
12 tenants and that ACM is a joint tenancy owner and
13 nothing more.

14 And, again, your Honor, getting back to the
15 Court's tentative and the issue with inconsistent
16 rulings. The Court granting this motion is not going to
17 create any inconsistent ruling. And it's not going to
18 invade upon or trample upon what is before Judge Ochoa.
19 It's limited to what's going on in this case. An order
20 from this Court is needed to reconfirm CSI's rights.
21 Paragraph 15, with regards to the Court's ongoing
22 jurisdiction, is really tailor made for this kind of
23 motion. I mean, if the parties to the adjudication
24 can't bring this kind of motion before this Court and
25 ask for clarification, I'm a bit confused as to exactly
26 what Paragraph 15 does. I mean, if this kind of motion

1 can't come before this Court, than what kind of motion
2 can come before this Court on a Paragraph 15? This
3 Court has in the past entertained and granted these
4 kinds of orders. And CSI respectfully request that the
5 Court go back, take another look, and modify the
6 tentative. We believe this order is appropriate and
7 should be issued.

8 THE COURT: Finished? Done?

9 MR. PISANO: Yes, your Honor.

10 THE COURT: Thank you.

11 MR. PISANO: Thank you.

12 THE COURT: Mr. Mcleod?

13 MR. MCLEOD: Yes. I believe that the points
14 raised by counsel were addressed in our opposition.
15 We'll submit on the tentative, unless the Court would
16 like me to respond to anything in particular.

17 THE COURT: Actually, no, they were addressed.

18 And, Mr. Herrema, did you have anything you
19 wanted to address?

20 MR. HERREMA: Well, your Honor, I just wanted to
21 address a couple of things. The first is that
22 Watermaster as described in our limited partial joinder
23 yesterday intended to be impartial -- I mean, has
24 intended to be impartial in this dispute between two
25 parties to the judgement. What Watermaster endeavored
26 to do was to, as the administrator of the judgment and

1 the keeper of some of these records, to provide for the
2 Court, to the best that it could be determined by
3 Watermaster and Watermaster staff, what the chronology
4 of these rights is and what the history of these rights
5 is. So, the partial joinder that was filed yesterday,
6 after that chronology lists just the points that
7 Watermaster joined in. Specifically, they relate to
8 confirming this Court's prior orders related to the
9 interest that CCG held, the processing of the transfer
10 of CCG's rights to ACM, Aquatic Capital's status as a
11 party, and then also -- and maybe most importantly --
12 the Court's jurisdiction to issue confirming orders in
13 this case that the two orders from which Watermaster has
14 based it's belief that CCG's interest was a co-tenancy
15 interest are the '95 and 2001 orders that this Court
16 issued. So, the Court's ability to issue confirming
17 orders is important to Watermaster and the parties.

18 THE COURT: All right. Thank you.

19 Mr. Pisano, rebuttal?

20 MR. PISANO: Rebuttal is really in the form of a
21 question, your Honor. And I think Watermaster's counsel
22 really brought the crux of this to the forefront; which
23 is that, if we can't rule on these types of motions,
24 what can we rule on? And what exactly did the Court
25 grant in 2009 when ACM intervened? I mean, did the
26 Court say in 2009 that ACM is the sole owner of these

1 water rights? Because if that's the case, then I
2 believe there has been a violation of Paragraph 61 of
3 the judgment -- or, 60 of the judgment, regarding loss
4 of rights. And CSI had no notice of that.

5 THE COURT: I remember that from your briefing,
6 yes.

7 MR. PISANO: And I believe it's important to
8 clarify what happened back in 2009, and where these
9 parties are with respect to their rights in this case at
10 this time.

11 THE COURT: Okay.

12 MR. PISANO: Respectfully submitted, your Honor.

13 THE COURT: Thank you. Well, the Court does not
14 see a necessity to confirm these orders. The orders, I
15 believe, speak for themselves. And you will have the
16 same orders to present to Judge Ochoa that you have,
17 here. The orders in my view speak for themselves.

18 I believe that the orders do have to do with a
19 determination of quantitative rights having to do with
20 how much of an interest CSI or ACM has in these shares,
21 that these water rights, and I see no purpose in
22 clarifying these orders. The Court has -- is not
23 adjuring or abrogating its responsibilities in the
24 Court's view. I don't see a necessity to confirm or
25 clarify the orders in this context. All of those issues
26 are very appropriate to be raised in a full context and

1 in a full hearing in quiet title text. And, so, the
2 Court is going to stick with its tentative for the
3 reasons set forth in the tentative. Thank you very
4 much. I'm going to go ahead and sign the tentative at
5 this time, by the way.

6 MR. MCLEOD: Thank you, your Honor.

7 (Whereupon the proceedings were adjourned.)

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1 **REPORTER'S CERTIFICATE**

2
3 CHINO BASIN MUNICIPAL WATER)
DISTRICT CHINO BASIN)
4 WATERMASTER, CALIFORNIA STEEL)
INDUSTRIES, ET AL.,)

5)
6 Plaintiff,)

7 - vs -)

CASE NO.: RCVRS51010

8 CITY OF CHINO, CITY OF POMONA,)
ET AL.,)

9 Defendants.)
10

11 I, LAVENDER LINO, CSR, Pro Tem Reporter of the
12 above-entitled court, do hereby certify:

13 That I am a Certified Shorthand Reporter of the
14 State of California, duly licensed to practice; that I
15 did report in Stenotype oral proceedings had upon
16 hearing of the aforementioned cause at the time and
17 place herein before set forth; that the foregoing pages
18 numbered 1 through 10, inclusive, constitute to the best
19 of my knowledge and belief a full, true, and correct
20 computer-aided transcription from my said shorthand
21 notes so taken for the date of FRIDAY, JULY 20, 2012.

22 Dated at CHINO, California, this 10th day of
23 AUGUST, 2012.

24
25  CSR,
26 Pro Tem Reporter, CSR No. 13046