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

DEPARTMENT S35 HONORABLE STANFORD REICHERT, JUDGE

CHINO BASIN MUNICIPAL WATER) CASE NO. RCVRS 51010
DISTRICT)
)
Petitioner,)
)
CITY OF CHINO, et al.,)
)
Defendants.)
_____)

REPORTER'S TRANSCRIPT OF EX PARTE HEARING

FRIDAY, FEBRUARY 1, 2019

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1 SAN BERNARDINO, CALIFORNIA, FRIDAY, FEBRUARY 1, 2019

2 A.M. SESSION

3 THE COURT: All right. So let's call this
4 matter. This is the Chino Basin Watermaster. It's
5 Case -- okay. So I'm calling the Watermaster case. This
6 is RCVRS 51010.

7 So everybody come on up, please, and I'll take
8 appearances first in the courtroom and then on the phone.

9 So let's get everyone arranged.

10 MR. GAGEN: Good morning, your Honor. Andrew
11 Gagen on behalf of Monte Vista Water District, the
12 applicant.

13 THE COURT: Okay. Thank you, Mr. Gagen.

14 Give me just a moment while I jot some notes
15 here.

16 Okay. And I recognize Mr. Slater. Good morning,
17 Mr. Slater.

18 MR. SLATER: Good morning. Scott Slater,
19 S-l-a-t-e-r, on behalf of Watermaster.

20 THE COURT: Okay. And then let me -- actually,
21 I've got kind of -- and I see Mr. Herrema. Good morning,
22 Mr. Herrema.

23 MR. HERREMA: Good morning, your Honor. Brad
24 Herrema, H-e-r-r-e-m-a, on behalf of Watermaster.

25 THE COURT: Okay. And then we're gonna go back
26 around. So, Miss Egoscue, let me get your appearance
27 next, please.

28 MS. EGOSCUE: Thank you. Good morning, your

1 Honor. Tracy Egoscue for the Ag Pool.

2 THE COURT: Okay. Thank you. And next?

3 MR. FUDACZ: Morning, your Honor. Fred Fudacz on
4 behalf of the City of Ontario.

5 THE COURT: Okay. Got it. And?

6 MR. BUNN: Good morning, your Honor. Thomas Bunn
7 on behalf of the City of Pomona.

8 THE COURT: Okay. And?

9 MR. ANDERSON: Good morning, your Honor. Steven
10 Anderson for Cucamonga Valley Water District.

11 THE COURT: Okay. Okay. And?

12 MR. KENNEDY: Good morning, your Honor. Steve
13 Kennedy on behalf of Three Valleys Municipal Water
14 District.

15 THE COURT: Okay. Got it. And is that everybody
16 in the courtroom, then? I think it is. Yes.

17 Okay. So it's a little -- always a little tough
18 to take appearances on the phone, but whoever speaks up
19 first, I'll try to identify and we'll pick it up from
20 there.

21 So whom do I have on the phone?

22 MS. GRADY: Shawnda Grady on behalf of Jurupa
23 Community Service District.

24 THE COURT: Okay. Can I get your name again,
25 please? I can just barely hear you.

26 MS. GRADY: I apologize. Shawnda, S-h-a-w-n-d-a,
27 and my last name is Grady, G-r-a-d-y.

28 THE COURT: Okay. And that was for Jurupa. I

1 got that.

2 Okay. Anybody else on the phone? Going once.
3 Going twice.

4 JUDICIAL ASSISTANT: Allen Hubsch --

5 THE COURT: Oh, Mr. Hubsch, are you on the phone?

6 COURT ATTENDANT: He signed up but no check-in.

7 THE COURT: Well, he signed up -- Mr. Hubsch
8 signed up -- signed up for court call but is not on the
9 phone so I'll ask one more time. Mr. Hubsch, are you on
10 the phone? And that's H-u-b-s-c-h, if I recall.

11 Okay. All rightie. Well, a couple things.
12 First, what amazed me is that I got the ex parte
13 application yesterday morning and the response to the
14 ex parte application yesterday afternoon. That was pretty
15 amazing. So thank you very much for the alacrity with
16 which everyone responded.

17 Second, I'm not gonna make any rulings today
18 because I haven't had really a chance to digest
19 everything; third, let me ask Mr. Gagen, if you would,
20 if -- to help me analyze this, because I'm going to give
21 you another date, and I'm gonna jump ahead a little bit.
22 I'm thinking maybe a week or so to make a ruling on this,
23 and then allow everybody else -- or set a briefing
24 schedule because I've got a large number of people here
25 and they all might want to chime in. And I need -- if
26 that's true, I'll set a date a little bit farther out.

27 But if you could just summarize for me,
28 Mr. Gagen, preferably in ten easy words or less -- thanks

1 for laughing, getting the joke. Thanks -- why I should
2 either take the motion off -- Watermaster -- Watermaster's
3 motion off calendar or stay it?

4 Go ahead, please.

5 MR. GAGEN: Okay. Sure. So we start with Code
6 of Civil -- Civil Procedure 916 --

7 THE COURT: Okay.

8 MR. GAGEN: -- which divests this Court of its
9 jurisdiction to enforce its 2017 order or any matters
10 embraced therein or affected thereby -- and I'm quoting
11 916.

12 THE COURT: Right.

13 MR. GAGEN: So we start with that. So this Court
14 has no jurisdiction regarding its 2017 order once the
15 appeal was filed.

16 The Court of Appeal issued a living remand for
17 one purpose and one purpose only, which was to allow the
18 parties on the appeal to file their motion to approve the
19 amendments --

20 THE COURT: Right. I got that. Okay.

21 MR. GAGEN: -- and no other motion by no other
22 party or Watermaster.

23 THE COURT: Okay. So that's essentially in a --
24 in summary it?

25 MR. GAGEN: Correct.

26 THE COURT: Okay. Thanks.

27 Mr. Slater, if you could do the same in
28 preferably ten easy words or less, so I've got an overview

1 as I'm approaching this to help me analyze the motion and
2 response and any additional paperwork that gets filed.

3 Go ahead, please.

4 MR. SLATER: Sure, your Honor. So I'll start
5 with the basic proposition, which is this is less about
6 the jurisdiction of the Court of Appeal, which has
7 jurisdiction over six parties to the appeal, and less
8 about your authority as the trial court judge with
9 continuing jurisdiction.

10 The appellants chose a pathway to settlement
11 which did not -- was not just an agreement inter se. It
12 was an agreement that contemplated, A, an amendment of the
13 judgment pursuant to which there are procedures and
14 third-party rights; B, court-approved management
15 agreements which have amendment provisions which must be
16 complied with as a predicate; and, C, factual findings
17 which are a predicate to the Court being able to make its
18 ruling.

19 The direction from the Court of Appeal could not
20 divest the Court of its continuing jurisdiction to
21 consider those matters. By their own admission they are
22 not amending your order. They are amending third-party
23 matters which are within your plenary power and your
24 continuing jurisdiction.

25 And so consequently it is about your authority
26 to adjust those rights whether the Court of Appeal meant
27 their, or, A, a motion. There are -- there is actually a
28 subsequent direction from the Court of Appeal not cited in

1 Mr. Gagen's papers, which we will provide you --

2 THE COURT: Okay.

3 MR. SLATER: -- which refers to quote, "a
4 motion," unquote, several times. And I would say to you
5 that since 2000, in the last 19 years that I've been
6 involved, every effort to amend the judgment, amend the
7 court management agreements has always been preceded by
8 Watermaster, A, resolution and, B, motion recommending it
9 to the Court. So that was the process that has always
10 been used.

11 And finally I would say the interesting part here
12 is, why are we here? Why -- why are we going through this
13 procedural discussion when Watermaster's resolution and
14 motion is to support and approve what the moving parties
15 are seeking?

16 There is only one substantive difference. And
17 so as you move away from today and you think about it, the
18 only substantive difference arises from a request for
19 assurance from the moving parties that they did not seek
20 to subsequently attack your April 7 -- or 27, 2018, order;
21 in other words, dismiss the appeal on these grounds and
22 then come back and argue about other provisions of the
23 ordinance, or the order, which would be, of course, res
24 judicata on those elements.

25 So the sole substantive difference which divided
26 and kept the Ag Pool in opposition to their motion and in
27 support of our motion is they sought, as did Watermaster,
28 a -- a confirmation from the Court that the safe yield

1 reset process will be as pursuant to your April 27, 2018,
2 order. That is the only substantive difference between
3 our resolution and our motion and theirs. There is no
4 other.

5 And so I would say -- submit to you there are
6 not dueling motions. There is a motion, a joinder, a
7 support for their motion with a supplement which brings
8 along the Ag Pool in a consent mode, and that is the
9 reason we're here.

10 THE COURT: Ah, okay. All right.

11 MR. GAGEN: Your Honor --

12 THE COURT: Yes, of course.

13 MR. GAGEN: -- if I may? A couple things. One,
14 the -- Watermaster is not asking this Court to just --
15 Watermaster's not trying to give its blessing to the
16 amendments that are being attached to the appeal party's
17 motion. Watermaster is asking this Court to enforce three
18 particular pages in these -- in this Court's 2017 order,
19 again, in direct violation of CCP 916 and the Court of
20 Appeal's order.

21 THE COURT: Got it.

22 MR. SLATER: Your Honor --

23 THE COURT: Yes, of course.

24 MR. SLATER: -- that -- that characterization
25 means that the extent of replies -- joinders, replies,
26 oppositions are irrelevant. Anything anybody else would
27 say would be in excess of what the Court of -- Court of
28 Appeal ordered because if it wasn't in their papers or

1 their prayer, this Court couldn't consider it. You have
2 to think about that. How could that possibly be the case?

3 THE COURT: Okay. Here's -- here's an initial
4 summary or -- not a ruling, not even an intended ruling.
5 It's a summary of what I think -- what I've heard, so let
6 me see if I understand what the arguments are.

7 Mr. -- for Mr. Gagen's point of view, the
8 remand -- I'll call it a partial remand, was to -- for the
9 trial court, me, to determine and approve the particulars
10 of a settlement agreement that the parties on appeal made.

11 For Mr. Slater's point of view, that -- there's
12 more to it than that. And the more to it than that means
13 that I need to look at how the settlement -- the approval
14 of the settlement agreement affects the totality of the
15 judgment and the rights -- and the rights of the parties
16 pursuant to that judgment.

17 MR. SLATER: 100 percent correct, your Honor.
18 And their own moving papers -- the collective moving
19 papers filed by all of them say that. One party, one
20 appellant is making the argument that -- that Watermaster
21 coming before you by a motion is exceeding the
22 jurisdiction of the trial court.

23 THE COURT: Okay.

24 MR. GAGEN: And, your Honor, if I may?

25 THE COURT: Of course.

26 MR. GAGEN: Watermaster is welcome to do so. It
27 can do so by presenting testimonial evidence at the
28 hearing on the 15th supporting the appeal party's motion;

1 right? Mr. Kavounas can appeal -- appear?

2 THE COURT: No. I'll tell you right now that's
3 not going to happen. There's no -- there is no way that
4 the Court is going to take any evidence -- I've been
5 through this before. And there's no way the Court's going
6 to take any live testimony in any -- any motion under any
7 circum- -- in any circumstances of which I can conceive of
8 now.

9 I can't predict what will happen in the future,
10 but I can tell you for now there's -- I issued an order on
11 this previously having to do with the -- was it the -- the
12 approval -- I can't remember the particular motion on
13 which there was -- that was the approval of the 483 set or
14 something?

15 MR. SLATER: Yes, you are correct, your Honor.
16 We had offered a narrative to explain that -- the context
17 and -- and we had concerns about that, of course --

18 THE COURT: Yes.

19 MR. SLATER: -- as you'll recall --

20 THE COURT: Yeah, I turned --

21 MR. SLATER: -- and it's been disposed.

22 THE COURT: -- I turned it down because I did not
23 want to augment the record with testimony, and I'm not
24 gonna do that now.

25 MR. GAGEN: And if I may?

26 THE COURT: Sure.

27 MR. GAGEN: And I understand that -- well, now
28 I understand that, your Honor.

1 THE COURT: Okay.

2 MR. GAGEN: But -- so Watermaster chose a route
3 to move this Court to do something. This Court doesn't
4 have jurisdiction to do what it's being moved to do by
5 Watermaster because it is stayed. It doesn't have the
6 jurisdiction to do so except to hear one motion and one
7 motion only, the appeal party's motion.

8 THE COURT: Got it. I think I understand now
9 much better than I did. So I appreciate your appearance
10 in person, Mr. Gagen. And I appreciate your appearance in
11 person, Mr. Slater. This must have been a short term -- I
12 can almost hear the arms waving in Santa Barbara for
13 both -- that's where you both are from -- no, Irvine and
14 Santa Barbara -- along the lines of "What is this?" and --

15 MR. SLATER: Yes, your Honor.

16 THE COURT: That was -- yes. That was kind of my
17 reaction too.

18 MR. SLATER: Yes, your Honor.

19 THE COURT: So now I know what it is, and I
20 appreciate that. Thank you, Mr. Gagen, for your insight
21 and argument. It's illuminating.

22 Thank you, Mr. Slater, for your insight and
23 argument.

24 MR. SLATER: Thank you for your time this
25 morning.

26 THE COURT: Also illuminating.

27 So the next question -- anyone else before I move
28 on? Yes, Ms. Egoscue -- Egoscue.

1 MS. EGOSCUE: Thank you, your Honor. Very
2 briefly, since we are here appearing on behalf of an
3 ex parte motion, I just wanted to briefly address the
4 Court regarding the perceived damage that is claimed by
5 Mr. Gagen on behalf of his client.

6 THE COURT: Uh-huh.

7 MS. EGOSCUE: And I would argue that we've seen
8 you twice recently. Once on the 5th of December, and once
9 on the 28th.

10 THE COURT: Yes.

11 MS. EGOSCUE: On the 5th of December, which we
12 have a transcript for, both Mr. Gagen and Mr. Gutierrez on
13 behalf of the City of Chino both represented to your Honor
14 that there was a grand bargain coming to you in the form
15 of a settlement.

16 THE COURT: Yes.

17 MS. EGOSCUE: In fact Mr. Gagen argued in
18 opposition to the non-Ag Pool claiming that there was a
19 grand bargain that was coming which precluded the need for
20 the non-Ag Pool to see you before that bargain.

21 Mr. Gutierrez argued against the Ag Pool's writ,
22 which, as you recall, your Honor took off calendar, also
23 claiming that the Ag Pool's writ merely requested the
24 Court to order what the Court had already ordered in your
25 April 28th, 2017, order.

26 THE COURT: All right.

27 MS. EGOSCUE: So in closing, because I'm trying
28 to get as close to ten words as possible --

1 THE COURT: Thank you. I always appreciate
2 lawyers who listen. Thank you, Miss Egoscue.

3 MS. EGOSCUE: -- by a factor of ten, of course.

4 THE COURT: Perfectly acceptable in this case.

5 MS. EGOSCUE: The moving party is misrepresenting
6 what is going on to this Court.

7 THE COURT: Okay.

8 MS. EGOSCUE: And what I would argue is that it
9 would be entirely appropriate for you to rule against this
10 ex parte application and proceed by the briefing schedule
11 that you have already set, which we very much look forward
12 to seeing you and having a hearing regarding in March.

13 Thank you.

14 THE COURT: Thank you, Miss Egoscue.

15 Anyone else in the courtroom want to add argument
16 at this time? No hands? It's like picking a jury. No
17 hands? Okay.

18 On the phone, Ms. Grady, anything that you wanted
19 to add? Are you still there?

20 MS. GRADY: No, your Honor.

21 THE COURT: Okay. Thanks.

22 Okay. Did Mr. Hubsch ever join us? No? Okay.
23 Just thought I'd ask.

24 Okay. I'm not prepared to rule, as I stated
25 initially.

26 The next question is, does anyone else who's here
27 or is anyone else aware of anyone else who wants to file a
28 written opposition? Going once. Going twice.

1 MS. EGOSCUE: Your Honor --

2 THE COURT: Oh, Miss Egoscue.

3 MS. EGOSCUE: -- if we do, I'd prefer that you
4 just take this and dispose of it, this matter. But if you
5 would like to have briefing, I do have a draft that I was
6 unable to submit by two o'clock yesterday. So -- but
7 I would prefer that you just dispose of this motion and we
8 see you in regular course.

9 THE COURT: I understand and appreciate that, but
10 as I -- I'm not gonna rule today. And if you've got
11 something drafted, please file it, and then I'll give a
12 chance -- Mr. Gagen a chance to respond.

13 MR. GAGEN: Thank you, your Honor.

14 THE COURT: You're welcome.

15 MR. SLATER: Your Honor, we don't have anything
16 else further to respond or to say on this point. I think
17 two documents which will be of interest to you is the
18 Court -- Appellate Court order of December 21st, which is
19 not in Mr. Gagen's filings.

20 THE COURT: Right. Okay.

21 MR. SLATER: So we'll give you that.

22 And then also you can peruse Watermaster's actual
23 resolution --

24 THE COURT: Okay.

25 MR. SLATER: -- which is attached to our motion I
26 guess.

27 THE COURT: Okay.

28 MR. SLATER: So just -- just the Court of Appeal.

1 THE COURT: Okay.

2 MR. GAGEN: I'm sorry. Actually, the application
3 for the Court is before the Court to not consider -- or
4 decide and not even consider Watermaster's motion.

5 THE COURT: Right. I'm not doing anything. I'm
6 not making any rulings right now on this ex parte
7 application, so that's clear.

8 MR. GAGEN: But Watermaster's inviting this Court
9 to in fact dig into its motion that's on calendar. We're
10 asking the Court to not even do that.

11 THE COURT: Well, that leaves me a little
12 speechless because I have to look at the underlying motion
13 in order to figure out whether I -- I should stay it.
14 Okay.

15 MR. GAGEN: But you don't, your Honor. It's a
16 jurisdictional argument.

17 THE COURT: I understand that, too, but from your
18 point of view. From your point of view, it's
19 jurisdictional, but maybe not from mine, and I have to
20 figure that out. Okay.

21 And, Mr. Herrema, did you want to add something?

22 MR. HERREMA: Watermaster's resolution is also
23 attached to the six appeal parties' motion.

24 THE COURT: Okay. So --

25 MR. SLATER: Your Honor, the only thing then --
26 the only thing is, which you can take judicial notice of,
27 you don't have to dig into it, it's available to you, it's
28 a Court of Appeal letter from the 21st. So that's the

1 only thing that we give you.

2 THE COURT: Okay. But that's not here.

3 MR. SLATER: Correct. It was not in their
4 papers.

5 THE COURT: And you don't have it in your motion
6 or your filing papers?

7 MR. SLATER: We -- we weren't -- we were aware of
8 it now. I'm gonna make it available to you.

9 THE COURT: Okay. Thanks.

10 So here we go. Since -- I'm gonna make a
11 short-term supplemental briefing for you to file that,
12 then, Mr. Slater.

13 MR. SLATER: Today.

14 THE COURT: Thank you. Four p.m. today.

15 Next, I'm gonna -- since -- Miss Egoscue, let me
16 come back to you for a moment.

17 About how much more time do you need to finalize
18 your response and get it filed with the court?

19 MS. EGOSCUE: Your Honor, I can do that by 4 p.m.
20 today.

21 THE COURT: Wow. Okay.

22 MS. EGOSCUE: Thank you.

23 THE COURT: Thank you.

24 All right. So we've got two -- two more things
25 coming in to be served and filed by 4 p.m. today, served
26 in the usual course to Watermaster to be distributed.

27 MR. SLATER: Yes, your Honor.

28 THE COURT: And then I'm gonna set Mr. Gagen's

1 response -- holy moly. Hang on just a sec. How about
2 this: How about if I have Mr. Gagen's response due by
3 Thursday at 4 p.m.?

4 Can you get it done by then, Mr. Gagen?

5 MR. GAGEN: Yes, your Honor. Thank you.

6 MR. SLATER: And, your Honor, to be clear, is it
7 response again, or is it a response to the two documents
8 or --

9 THE COURT: Oh, just a response to the two
10 documents.

11 MR. SLATER: -- the letters?

12 THE COURT: Yes, only a response to the initial
13 briefing, not --

14 MR. SLATER: Okay.

15 THE COURT: -- not expanding it again.

16 MR. SLATER: Okay. Thank you.

17 THE COURT: I'm trying to focus. As they say,
18 focus, focus.

19 Okay. So just a response to Miss Egoscue and
20 whatever else you filed --

21 MR. SLATER: The document.

22 THE COURT: -- the document, Mr. Slater.

23 And then -- and please provide a courtesy copy
24 directly to the courtroom because it looks like I know
25 what I'm going to be doing over the two days I had planned
26 off the week of the -- the 11th -- the week of the 11th.

27 So what I intend to do, then, is set another
28 hearing for this one week -- two weeks from today, which

1 should be enough time for everyone, depending on what my
2 ruling, to know what to do with respect to going forward
3 on the briefing with respect to the motion that we've
4 already got by Mr. Tanaka, which is the motion to self to
5 approve the settlement, which I got. That was filed
6 January 15, and a response.

7 MR. SLATER: Your Honor?

8 THE COURT: Yes, Mr. Slater.

9 MR. SLATER: Okay. I just want to make you aware
10 of the calendar.

11 THE COURT: Yes, please.

12 MR. SLATER: All right. So under your present
13 order there's a motion --

14 THE COURT: Right.

15 MR. SLATER: -- that -- that we have filed.

16 THE COURT: Right.

17 MR. SLATER: Responses are due on February 13th.

18 THE COURT: Oh, heavens. Okay. That's what I
19 couldn't remember. Thank you. I'm gonna fix that today.

20 MR. SLATER: Yeah.

21 THE COURT: Okay.

22 MR. SLATER: The only -- the only -- I think I
23 would actually waive filing the additional information,
24 although I think it would be beneficial for the Court.

25 THE COURT: Yeah, I need to know.

26 MR. SLATER: Okay.

27 THE COURT: So here's what we're going to do, and
28 as you know, my general approach to this case is -- and I

1 say this without a hint of rebuke or reproach, we're still
2 discussing the 2010 reset. It's 2019. We've got -- we've
3 got a 2020 reset analysis coming up next year.

4 And so this -- this is -- maybe you've heard me
5 say this before, but I'll say it again. In cases that
6 have been pending for a long time, and this one has, you
7 can draw two very reasonable conclusions from that fact.

8 One conclusion is, this has been pending so long,
9 we need to get to it right away. The other, this has been
10 pending so long, another month or two isn't going to make
11 much difference. I'm choosing option two, another month
12 or two isn't going to make much difference because I can
13 almost -- and I say this again without a hint of rebuke or
14 reproach, this is probably going to be for the Court of
15 Appeal again depending on what I rule. I don't know.

16 And -- and that's been on appeal for almost two
17 years, so -- and I say that without a hint of rebuke or
18 reproach. It's just the facts of the matter that we're
19 dealing with. So I'm gonna revamp the schedule for the
20 hearing on the settlement and reschedule the date and the
21 briefing schedule now.

22 MR. BUNN: Your Honor, may I be heard on that?

23 THE COURT: Sure. Let me get your appearance,
24 though, one more time.

25 MR. BUNN: Sure. Thomas Bunn for the City of
26 Pomona. I'm one of the six parties that filed the
27 motion --

28 THE COURT: Right.

1 MR. BUNN: -- to approve the settlement, and we
2 would be opposed to moving the March 15th hearing. I
3 don't think that the briefing dates are so critical.

4 But Mr. Gagen and Mr. Slater are arguing about a
5 very narrow issue, and I don't think this should be
6 permitted to stop the -- the progress of the approved
7 settlement, which we've been working on now, as you've
8 noted, for a long time.

9 THE COURT: Oh, yes. Oh, yes.

10 Well, here's the problem. For Mr. Gagen's point
11 of view, it's a narrow issue. For Mr. Slater's point of
12 view, it isn't. And I don't know. Maybe it is and maybe
13 it isn't. But the last thing I want to do is start
14 creating extra problems for myself, for the Court of
15 Appeal, or for counsel by rushing into something that
16 another three weeks or so is -- might help me and the --
17 me resolve in a more thoughtful way, and the Court of
18 Appeal to have a better record in terms of what it may
19 have to do depending upon what my ruling might be.

20 So I appreciate, Mr. Bunn, your argument, but
21 it's not persuasive to me today for those reasons. Thank
22 you. So the objection noted but overruled.

23 So here we go. What I'm thinking about actually
24 doing is, is vacating the current briefing schedule and
25 the hearing date for the motion -- no, no, I'm not gonna
26 do that. No, I'm not gonna do that.

27 MR. SLATER: Motion to file.

28 THE COURT: Yeah, motion to file, so that's not

1 the right way to go. Sorry.

2 What I'm going to do is, is reconsider the
3 briefing schedule. I'm -- the briefs in response to
4 Mr. Tanaka's motion are not going to be due on the 13th of
5 February. Let me start with that. Okay.

6 So Step 1, those briefs are not gonna be due on
7 the 13th.

8 On the 15th of Jan- -- of February, the -- the
9 next hearing on these ex parte -- on the ex parte I will
10 reset the hearing -- the briefing schedule for the
11 response for the opposition and the replies, and probably
12 continue the hearing date depending upon what that
13 briefing schedule is. So no one -- and I hope you -- you
14 noticed that I do my very best not to jam counsel in terms
15 of short deadlines and what the Court would consider from
16 my own days in practice unreasonable workloads to try to
17 get things done in a short amount of time.

18 So with that understanding, I'm confirming any
19 order that the opposition to the motion that was filed
20 January 15 by Mr. Tanaka and Best, Best & Krieger on
21 behalf of Cucamonga Valley Water District are not going to
22 be due February 13th. I will reset that date at the
23 hearing on February 15.

24 MR. SLATER: Your Honor, if it -- if it's
25 possible, I'm gonna be on the East Coast during the 15th.

26 THE COURT: Oh, okay.

27 MR. SLATER: Any day the following week?

28 THE COURT: Sure. How about -- Mr. Bunn has a

1 point, that we do need to get moving forward. How about I
2 give you a hearing date, Tuesday, the 19th?

3 MR. SLATER: Thank you, your Honor.

4 THE COURT: Monday's a holiday. Again, I don't
5 want to interfere with people's vacation schedules if
6 anybody's going to take some time off, but the 18th is a
7 holiday. That's President's Day, and I can give you
8 Tuesday, the 19th.

9 MR. SLATER: Perfect, your Honor. Thank you.

10 THE COURT: Okay. Let me just confirm that works
11 for everybody else then.

12 Any- -- anyone in the courtroom who has an
13 objection, please raise his or her hand.

14 No hands? Okay.

15 I have to do it in the pick-the-jury method.

16 Ms. Grady, on the phone, is that okay with you?

17 MS. GRADY: That's fine, your Honor. Thank you.

18 THE COURT: Okay. And how about this, since I
19 have people coming from a distance -- I probably have a
20 trial scheduled on that afternoon of the 19th. Let me ask
21 my judicial -- yes. But I will schedule you at 1:30 on
22 the 19th then --

23 MR. SLATER: Thank you, your Honor.

24 THE COURT: You're welcome -- so that those of
25 you who are coming from a distance can make it a day trip
26 and don't have to get up at 09- -- 06:30 in the morning to
27 try to get here on time. I appreciate that.

28 MR. SLATER: We appreciate that, your Honor.

1 THE COURT: Okay. So it will be -- the next
2 hearing on the ex parte -- give me just a moment.

3 JUDICIAL ASSISTANT: It's scheduled for two days.
4 Did we want to have it then on the February the 20th?
5 Then that way we can give them --

6 THE COURT: Yes. Actually, if you don't mind,
7 let me bump it one more day to Wednesday, the 20th, so the
8 people that I have coming in on the 19th for trial will
9 know what the schedule is for the next day if that works
10 for everybody? If not, we'll keep it on the 19th.

11 MR. SLATER: It does, your Honor.

12 MR. GAGEN: That's fine, your Honor.

13 THE COURT: Any objection? Any hands? No hands.
14 On the phone, Miss Grady?

15 MS. GRADY: No objection, your Honor.

16 THE COURT: I couldn't hear you.

17 THE REPORTER: "No objection, your Honor."

18 THE COURT: Oh, no objection?

19 MS. GRADY: That's fine, your Honor.

20 THE COURT: Okay. Thanks. Okay.

21 All right. So we're set to go now Wednesday
22 afternoon, February 20, at 1:30 p.m., for the next hearing
23 on this. And then I will reset the briefing schedule, and
24 I will probably continue the motion to a date based on
25 that briefing schedule depending upon what my rulings are.
26 And everyone will know what they then need to do and when
27 when you come back on the 20th of February at 1:30.

28 How does that sound?

1 MR. SLATER: Thank you, your Honor.

2 THE COURT: Okay, Mr. Slater and Mr. Herrema?

3 MR. HERREMA: Yes, sir.

4 THE COURT: Mr. Gagen?

5 MR. GAGEN: Thank you, your Honor. That sounds
6 good.

7 THE COURT: Anybody else in the courtroom, then,
8 want to be heard before I wrap up this hearing? I guess
9 not.

10 MR. SLATER: We'll offer to provide notice, your
11 Honor.

12 THE COURT: Thank you very much.

13 Thank you, everyone. Thank you for your insight,
14 argument. And one more thing?

15 JUDICIAL ASSISTANT: Who said that?

16 THE COURT: Mr. Slater did, yes.

17 Okay. All right. Thank you again, everyone.

18 See you on the 20th.

19 (End of hearing at 9:13 a.m.)

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