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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SSC-10 HON. WILLIAM F. HIGHBERGER, JUDGE

SANTA BARBARA CHANNELKEEPER, )  
 )  
 PLAINTIFF, )

VS. )

CASE NO.  
19STCP01176

STATE WATER RESOURCES CONTROL BOARD, )  
ET AL., )  
 )  
 DEFENDANTS. )

\_\_\_\_\_  
AND RELATED CROSS-ACTION. )  
\_\_\_\_\_ )

REPORTER'S TRANSCRIPT OF PROCEEDINGS

FRIDAY, JULY 23, 2021

APPEARANCES:

FOR THE PLAINTIFF: ATTORNEY GENERAL OF THE STATE OF CALIFORNIA  
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(APPEARANCES CONTINUED ON FOLLOWING PAGE.)

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OFFICIAL REPORTER PRO TEMPORE  
CCROLA JOB NO. 163893

July 23, 2021

Original

1 APPEARANCES: (CONTINUED)

2

3 FOR CROSS-DEFENDANT CASITAS MUNICIPAL WATER DISTRICT:

4 RUTAN & TUCKER  
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15 (THE FOLLOWING APPEARANCES APPEARED VIA L.A. COURT CONNECT:)

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28 FOR CROSS-DEFENDANT JEFF BACON AS TRUSTEE OF THE VILLA NERO TRUST:

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FOR LOA E. BLISS 2006 REVOCABLE TRUST:

LOA E. BLISS, IN PRO PER

FOR CLAUDE R. BAGGERLY AND PATRICIA E. BAGGERLY:

CLAUDE R. BAGGERLY, IN PRO PER

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I N D E X

FRIDAY, JULY 23, 2021

CHRONOLOGICAL INDEX OF WITNESSES

(NONE OFFERED.)

EXHIBITS

(NONE.)

Original

1 CASE NUMBER: 19STCP01176  
2 CASE NAME: S.B.C. VS. S.W.R.C.B.  
3 LOS ANGELES, CALIFORNIA FRIDAY, JULY 23, 2021  
4 DEPARTMENT SSC-10 HON. WILLIAM F. HIGHBERGER, JUDGE  
5 REPORTER: KAREN VILICICH, CSR NO. 7634  
6 TIME: P.M. SESSION  
7

8 (THE FOLLOWING PROCEEDINGS WERE HELD  
9 IN OPEN COURT, WITH SOME PARTICIPANTS  
10 APPEARING REMOTELY:)  
11  
12

13 THE COURT: SANTA BARBARA CHANNELKEEPER VERSUS STATE  
14 WATER RESOURCES CONTROL BOARD.  
15 OFF THE RECORD.  
16

17 (DISCUSSION HELD OFF THE RECORD.)  
18

19 THE COURT: BACK ON THE RECORD.

20 WE HAD TO ABORT THINGS MONDAY WHEN WE HAD SOUND  
21 PROBLEMS. AT THE TIME, WE WERE CLOSE TO BEING DONE WITH  
22 MR. BAGGERLY'S MOTION ABOUT A COURT-APPOINTED EXPERT, BUT I  
23 HAD NOT BEEN ABLE TO ANNOUNCE A RULING.

24 SO AT THIS POINT, AS TO MR. BAGGERLY'S MOTION,  
25 THE COURT'S DISPOSITION IS TO TRAIL THE MOTION TO OUR NEXT  
26 STATUS MOTION CONFERENCE IN AUGUST. AT THAT TIME, SEE IF  
27 ANYTHING ABOUT THE STATE OF PLAY SUGGESTS TO THE COURT OUGHT  
28 TO AFFIRMATIVELY SEEK TO APPOINT AN EXPERT.

Original

2

1 I HAVE VIA THE FILE&SERVE XPRESS BULLETIN BOARD  
2 ADVISED YOU OF THE POST-HEARING RESPONSE I SENT TO THE TWO  
3 PEOPLE FROM THE NATIONAL JUDICIAL COLLEGE DIVIDING THE  
4 WATERS CONFERENCE WITH A COPY ALSO TO JUSTICE ROBIE. AND  
5 WHILE I DIDN'T SEEK A RESPONSE THERETO, I GOT ONE, WHICH WAS  
6 SHARED WITH YOU IN THOSE POSTINGS.

7 MR. BAGGERLY, CAN YOU UNMUTE AND TELL ME IF YOU  
8 NEED TO BE HEARD FURTHER OR IF YOU AT THIS POINT ACCEPT THE  
9 COURT'S RULING TO CONTINUE YOUR MOTION TO THE AUGUST STATUS  
10 CONFERENCE?

11 MR. BAGGERLY?

12 MR. BAGGERLY: THANK YOU VERY -- THANK YOU, MR. --  
13 JUDGE HIGHBERGER. I THINK YOU ARE MAKING A WISE DECISION  
14 AND I SUPPORT IT.

15 THE COURT: THANK YOU.

16 COUNSEL FOR THE CITY OF VENTURA, AS IT'S  
17 COMMONLY KNOWN, MR. HAGERTY, DO YOU WISH TO BE HEARD  
18 FURTHER?

19 MR. PISANO: YOUR HONOR, WE ARE FINE WITH THE COURT  
20 TRAILING THIS UNTIL THE NEXT STATUS CONFERENCE.

21 CHRIS PISANO.

22 THE COURT: ANYBODY ELSE WANT TO BE HEARD?

23 MR. BAGGERLY: THIS IS MR. BAGGERLY AGAIN.

24 THE COURT: MR. BAGGERLY, DO YOU WANT TO SAY SOMETHING  
25 MORE?

26 MR. BAGGERLY: JUST ONE. HOW DO YOU GUYS GET USED TO  
27 HANGING FIRE FOR ALL THIS TIME? THIS IS GOING TO MAKE ME A  
28 NERVOUS WRECK. ANYWAY, I LIKE YOUR RULINGS.

1 THE COURT: THINGS GO SLOWLY IN THE PRACTICE OF LAW  
2 OFT TIMES, SO IT'S NOT JUST IN ITALY THAT THE LEGAL SYSTEM  
3 IS SLOW. IN SOME ASPECTS, IT'S EQUALLY SLOW IN THE UNITED  
4 STATES. SOMETIMES IT'S BECAUSE THE COURT HAS LIMITED  
5 THROUGHPUT, AND SOMETIMES IT'S BECAUSE THE LAWYERS OR THE  
6 PARTIES DON'T WANT THINGS TO HAPPEN QUICKLY. THERE ARE ALL  
7 SORTS OF REASONS WHY IT TAKES A LONG TIME FOR THE LEGAL  
8 SYSTEM TO REACH A RESULT.

9 ANYWAY, SO THAT TOOK CARE OF THAT MOTION.

10 NOW WE TURN TO THE QUESTION OF THE PHASING OF  
11 DISCOVERY. I HAVE THE BENEFIT OF THE CITY OF VENTURA'S  
12 BRIEFS, AND SEVERAL BRIEFS EXPRESSING A CONTRARY VIEW, AS  
13 WELL AS THE CITY OF VENTURA'S REPLY BRIEF.

14 MY UNDERSTANDING IS THERE IS NO CASE ON POINT  
15 THAT DEALS WITH THE INTERPLAY -- THERE IS NO CASE THAT I AM  
16 AWARE OF THAT DEALS WITH THE INTERPLAY OF THE STREAMLINED  
17 GROUNDWATER ADJUDICATION STATUTE, PARTICULARLY THE  
18 PROVISIONS OF SECTION 843, VERSUS THE GENERAL PROVISIONS OF  
19 THE CIVIL DISCOVERY ACT REGARDING EXPERT WITNESSES.

20 THEREFORE, I AM DEALING WITH A QUESTION OF FIRST IMPRESSION.

21 ALTHOUGH THE CITY OF VENTURA DOES ITS BEST TO  
22 MAKE AN ELEGANT ARGUMENT THAT THE SIMULTANEOUS EXCHANGE  
23 PROVISIONS, WHICH ARE QUITE OBVIOUS IN THE GENERAL  
24 PROVISIONS OF THE CODE OF CIVIL PROCEDURE, ARE NOT IN  
25 CONFLICT WITH THE PROVISIONS OF THE STREAMLINED GROUNDWATER  
26 ADJUDICATION ACT AT SECTION 843, I AM PERSUADED OTHERWISE  
27 THAT THE LEGISLATURE'S CONSCIOUS CHOICE THAT THE COURT  
28 COULD, IN A STREAMLINED GROUNDWATER ADJUDICATION ACT,

Original

4

1 SEQUENCE THE EXPERT DISCOVERY IF THE COURT CHOSE TO DO SO,  
2 IS AN EXPRESS GRANT OF THE AUTHORITY I OTHERWISE WOULDN'T  
3 HAVE. THE GROUNDWATER ADJUDICATION STATUTE IS NEWER THAN  
4 THE CIVIL DISCOVERY ACT, ALTHOUGH THE LEGISLATURE WILL  
5 DIDDLE WITH ASPECTS OF THE CIVIL DISCOVERY ACT EVERY NOW AND  
6 THEN WHEN THE SPIRIT MOVES THEM.

7 BUT FOR THESE PURPOSES, THE SPECIFICITY OF THE  
8 STREAMLINED GROUNDWATER ADJUDICATION ACT I THINK PROVIDES A  
9 BASIS TO DETERMINE THAT THAT DOES GIVE ME THIS AUTHORITY.

10 THE CITY OF VENTURA IS CORRECT THAT THE CLAIMS  
11 IN THIS CASE GO BEYOND CLAIMS SPECIFICALLY SUBJECT TO THE  
12 GROUNDWATER ADJUDICATION STATUTE, I.E. THE REPAIRING CLAIMS  
13 THAT ARE ALSO AT ISSUE. BUT IT'S IN MY VIEW, AS LONG AS  
14 THEY ARE, AS THEY INDISPUTABLY ARE, ADJUDICATION CLAIMS  
15 BEFORE ME, THAT DISCOVERY IN CONNECTION WITH THAT, WHICH IS  
16 CERTAINLY WHAT THE EXPERT DISCOVERY IS, CAN BE CONTROLLED BY  
17 THE COURT DUE TO THE EXERCISE OF THE DISCRETION PRUDENTLY  
18 GRANTED TO ME BY THE LEGISLATURE IN THE COMPREHENSIVE  
19 GROUNDWATER ADJUDICATION STATUTE. THEREFORE, I DO BELIEVE I  
20 HAVE THOSE POWERS AND I INTEND TO EXERCISE THEM AND TO MAKE  
21 THE CITY OF VENTURA GO FIRST.

22 CITY OF VENTURA OTHERWISE INDICATED A  
23 WILLINGNESS TO PUT ITS CARDS ON THE TABLE, ALBEIT IT WANTED  
24 IT TO BE SIMULTANEOUS, AS EARLY AS -- I BELIEVE IT WAS  
25 AUGUST 24 OR MAYBE JUST THE WORDS, "END OF AUGUST." ALBEIT,  
26 THE CITY ONLY WANTED IT TO HAPPEN THAT WAY IF IT WAS GOING  
27 TO BE MUTUAL.

28 BUT THE COURT WILL TAKE THE CITY UP ON ITS

Original

5

1 OTHERWISE STATED ABILITY TO PUT ITS EXPERT OUT THERE BY THE  
2 END OF AUGUST. I GUESS THE CITY'S REFERENCE WAS "A DATE IN  
3 LATE AUGUST." SO FOR THESE PURPOSES, I WOULD TAKE "DATE IN  
4 LATE AUGUST" TO MEAN TUESDAY, AUGUST 31, WITH RESPONSE BY  
5 PEOPLE, LIKE THE STATE, OF WHAT WOULD, IN MY VIEW, BE  
6 CONSIDERED MAJOR PLAYERS, DUE ON SEPTEMBER 24, WITH OTHER  
7 PARTIES WHO HAVEN'T YET RETAINED AN EXPERT ENTITLED TO  
8 SUBMIT SOMETHING ON SEPTEMBER 24 SAYING THAT THEY WANT TO  
9 RESERVE THE RIGHT AS MINOR PLAYERS TO DETERMINE WHETHER OR  
10 NOT THEY ARE GOING TO OFFER AN EXPERT AND TO MAKE THEIR  
11 DISCLOSURE, IF AT ALL, ON OCTOBER 22 OF THIS YEAR.

12 SO THAT WILL BE MY VIEW OF HOW THIS OUGHT TO GO  
13 DOWN. THIS IS NOT HOW THE CITY OF VENTURA WANTS IT TO GO  
14 DOWN, SO I WILL HEAR FROM YOU, MR. PISANO, MR. HAGERTY, AS  
15 YOU WISH.

16 MR. PISANO: THANK YOU, YOUR HONOR.

17 THE COURT: OH, AND TAKE A WRIT IF YOU WANT BETWEEN  
18 NOW AND AUGUST 31. IT'S A QUESTION OF FIRST IMPRESSION, WE  
19 WOULD PROBABLY BENEFIT BY APPELLATE AUTHORITY. I DON'T  
20 THINK IT'S TERRIBLY SIGNIFICANT FROM A CASE DISPOSITIVE  
21 POINT OF VIEW, SO I DON'T THINK IT JUSTIFIES CERTIFICATION  
22 UNDER CCP 166.1, BUT IF YOU FEEL IT'S WORTHY OF WRIT, I  
23 COULD CERTAINLY UNDERSTAND WHY YOU MIGHT WANT TO DO SO.

24 MR. PISANO: I APPRECIATE THAT COMMENT, YOUR HONOR.

25 THE COURT: THERE IS TIME ENOUGH TO DO IT, BETWEEN NOW  
26 AND AUGUST 31.

27 MR. PISANO: RIGHT. UNDERSTOOD AND I APPRECIATE THE  
28 COMMENT AND APPRECIATE THE COURT'S ATTENTION TO THIS. THE



Original

6

1 COURT HAS OBVIOUSLY READ ALL THE BRIEFS AND THE ARGUMENTS.  
2 YOU ARE RIGHT, THERE IS NO CASE THAT TALKS ABOUT THE  
3 INTERPLAY BETWEEN 843 AND CHAPTER 18 OF THE DISCOVERY ACT,  
4 WHICH IS THE EXPERT EXCHANGE.

5 I RESPECTFULLY DISAGREE WITH THE COURT'S  
6 ANALYSIS THAT THE STATUTES ARE EXPRESSLY IN CONFLICT OR I  
7 DISAGREE WITH THAT, BUT I DON'T THINK IT COULD BE STATED  
8 BETTER THAN IT IS IN THE PAPERS. SO I WILL LET THE ARGUMENT  
9 IN THE PAPERS SPEAK FOR ITSELF.

10 WHAT I WOULD LIKE TO POINT OUT, YOUR HONOR, IS  
11 THAT THE DEFAULT PROVISION, THE DEFAULT PROVISION IN THE  
12 ADJUDICATION STATUTE IN 843 IS FOR A SIMULTANEOUS EXCHANGE.  
13 I THINK IF THE COURT IS GOING TO SEQUENCE IT DIFFERENTLY AND  
14 FORCE ONE PARTY TO GO FIRST, THE PARTIES THAT WANT THAT HAVE  
15 TO MAKE A SHOWING OF GOOD CAUSE.

16 THE COURT: I THINK, FRANKLY, THE AGGREGATE ASSERTIONS  
17 OF THE REASON WHY THE CITY OF VENTURA, WHICH HAS BEEN IN  
18 THIS EXERCISE THE LONGEST AND IS THE CURRENT PROPONENT OF  
19 THE PHYSICAL SOLUTION, HAVE SHOWN WHAT TO ME IS MORE THAN  
20 SUFFICIENT CAUSE. YOUR REPLY ARGUES TO A CONTRARY RESULT,  
21 BUT I AM PERSUADED THAT IN THE AGGREGATE, THE SEVERAL  
22 OPPOSITION BRIEFS HAVE SHOWN THE LOGIC OF IT. I COULD  
23 INDEPENDENTLY STATE IT AS I TRIED TO BY SAYING ESSENTIALLY  
24 YOU ARE FIRST TO THE PARTY, YOU HAVE A PHYSICAL SOLUTION YOU  
25 LIKE THAT PRESUMABLY WORKS, THIS IS AN EXPERT-DRIVEN CASE AT  
26 THE END OF THE DAY, IT'S NOT GOING TO BE A "WHO RAN THE RED  
27 LIGHT" KIND OF A FACT-FINDING EXERCISE. IT'S GOING TO BE AN  
28 EXPERT PERSUASIVENESS EXERCISE.

1 SO I THINK THERE ARE LOTS OF GOOD CASE  
2 MANAGEMENT REASONS TO HAVE THE CITY OF VENTURA GO FIRST.

3 MR. PISANO: YOUR HONOR, I APPRECIATE THAT  
4 PERSPECTIVE. I WOULD REQUEST THAT THE COURT THINK ABOUT THE  
5 FLIP SIDE OF THE COIN, WHICH IS THAT THERE ARE SOME CROSS-  
6 DEFENDANTS, PARTICULARLY THE EAST OJAI GROUP, THEY HAVE  
7 INDICATED THEY HAVE AN EXPERT. THEY ARE IN ALL LIKELIHOOD  
8 GOING TO COME IN WITH AN OPINION THAT IS CONTRARY TO OURS.

9 THE COURT: THEN THEY WILL PUT IT ON THE TABLE ON  
10 SEPTEMBER 24TH AND YOUR EXPERT WILL HAVE PLENTY OF TIME  
11 BETWEEN THEN AND TRIAL TO TWEAK HIS OPINION TO BE READY TO  
12 RESPOND TO THE SOPHISTRY OF THE EAST OJAI EXPERTS.

13 MR. PISANO: AND I HAVE -- WE WILL OBVIOUSLY DO THE  
14 BEST WITH WHAT WE HAVE TO WORK WITH, BUT THE POINT, YOUR  
15 HONOR, IS THAT THE WHOLE POINT OF THE DEFAULT BEING A  
16 SIMULTANEOUS EXCHANGE IN BOTH THE CIVIL DISCOVERY ACT AND  
17 THE ADJUDICATION STATUTE IS THAT THE LEGISLATURE RECOGNIZES  
18 THAT IT IS INHERENTLY UNFAIR TO MAKE ONE PARTY GO FIRST AND  
19 GIVE THE PARTY -- GIVE THE ADVERSARY TIME WITH THE EXPERT'S  
20 REPORT SUCH THAT THEIR EXPERTS CAN REALLY FOCUS THEIR  
21 ANALYSIS ON TRYING TO REFUTE WHAT IS IN THE FIRST TO-GO'S  
22 EXPERT REPORT, RATHER THAN EACH SIDE JUST PUTTING THEIR  
23 OPINIONS ON THE TABLE.

24 THE COURT: BUT THEN THERE IS NO REASON FOR THE  
25 LEGISLATURE TO ALLOW THE COURT TO HAVE SEQUENCING IN A  
26 STATUTE THAT WAS PASSED AFTER THIS LAWSUIT WAS FIRST FILED.  
27 IT'S A NEW STATUTE. THE STATUTE IS YOUNGER THAN THE  
28 LAWSUIT.

Original

8

1 MR. PISANO: I UNDERSTAND THAT, YOUR HONOR. BUT THE  
2 POINT -- THE POINT I AM MAKING IS THAT THE FLIP SIDE  
3 ARGUMENT ON THE GOOD CAUSE IS THAT IT IS INHERENTLY UNFAIR  
4 TO MAKE ONE SIDE'S EXPERT GO FIRST. IT DOES PUT THEM AT AN  
5 INHERENT DISADVANTAGE. SO THERE REALLY DOES NEED TO BE A  
6 STRONG SHOWING OF GOOD CAUSE.

7 THE COURT: I FOUND IT.

8 MR. PISANO: WELL, IF THE COURT HAS FOUND GOOD CAUSE.

9 THE COURT: I HAVE. IN MY VIEW, I FOUND GOOD CAUSE ON  
10 THIS RECORD.

11 MR. PISANO: OKAY. FAIR ENOUGH, YOUR HONOR. I WON'T  
12 BEAT MY HEAD INTO A BRICK WALL. THANK YOU FOR THE  
13 OPPORTUNITY TO ARGUE.

14 THE COURT: ANYBODY FROM EAST OJAI OR OTHERWISE OR  
15 CITY OF OJAI WANT TO BE HEARD?

16 MR. PATTERSON: YOUR HONOR, THIS IS GREG PATTERSON.

17 WE ARE OBVIOUSLY IN COMPLETE AGREEMENT WITH THE  
18 COURT'S CONCLUSION. I THINK IT PROVIDES SOME EFFICIENCY AND  
19 SOME LOWER COSTS TO A WHOLE BUNCH OF PEOPLE WHO ARE BEING  
20 BURDENED BY EXPENSIVE EXPERT WITNESS TESTIMONY. SO I AM --  
21 THAT'S IT FOR ME. THANK YOU.

22 THE COURT: OKAY. ANYBODY ELSE WANT TO BE HEARD?

23 YOU DON'T NEED TO SPEAK UP. I AM SATISFIED  
24 WITH THIS CONCLUSION.

25 MR. COSGROVE OR MR. HERREMA?

26 MR. COSGROVE: THANK YOU, YOUR HONOR. DAVID COSGROVE  
27 FOR CASITAS.

28 I RISE ONLY TO A POINT OF CLARIFICATION. IT

Original

9

1 APPEARS THAT YOUR TENTATIVE HAS TWO DIFFERENT SORT  
2 CHARACTERISTICS FOR THE PARTIES THAT WILL BE EXCHANGING, ONE  
3 IS A MINOR OR MAJOR PLAYER AND THE OTHER IS EXPERT-RETAINED  
4 OR NOT. CASITAS FALLS ON BOTH SIDES OF THAT. I THINK WE  
5 WOULD HAVE A HARD TIME CHARACTERIZING OURSELVES AS A MINOR  
6 PLAYER, BUT WE HAVEN'T RETAINED AN EXPERT. SO I WONDERED IF  
7 YOU MIGHT CLARIFY WHICH OF THOSE TWO CHARACTERISTICS IS  
8 GOING TO BE THE DETERMINATE ONE.

9 THANK YOU.

10 THE COURT: WELL, GIVEN THAT YOU WILL SEE THE CITY OF  
11 VENTURA'S REPORT AT THE END OF AUGUST AND HAVE A MONTH TO  
12 RETAIN AN EXPERT, WOULD YOU EXPECT TO BE RETAINING AN EXPERT  
13 BY SEPTEMBER 24TH TO RESPOND TO WHAT YOU VIEW TO BE AS A  
14 SUSPECT EXPERT REPORT BY THE CITY OF VENTURA?

15 MR. COSGROVE: AT THIS POINT, WE DON'T KNOW THAT WE DO  
16 CONSIDER IT SUSPECT AND WE WOULD RESERVE JUDGMENT ON THAT  
17 UNTIL WE SEE IT.

18 THE COURT: WELL, I THINK THE SORT OUGHT TO BE MAJOR  
19 VERSUS MINOR AND NOT RETAINED OR NOT. SO YOU NEED TO PUT  
20 YOUR CARDS ON THE TABLE ON THE 24TH OR RISK ONLY BEING ABLE  
21 TO OFFER A BONA FIDE REBUTTAL EXPERT.

22 MR. COSGROVE: I HAVE THE CLARIFICATION I REQUESTED.  
23 THANK YOU.

24 THE COURT: OKAY. OTHERS WISH TO BE HEARD?

25 MS. JACOBSON: YES, YOUR HONOR. THIS IS HOLLY  
26 JACOBSON FOR THE CITY OF OJAI.

27 THE COURT: YES, MA'AM.

28 MS. JACOBSON: I HAVE A SIMILAR HOUSEKEEPING QUESTION

Original

10

1 FOR YOU REGARDING EXACTLY WHO ARE THE MAJOR PLAYERS FOR THE  
2 SEPTEMBER 24TH DEADLINE. THE CITY OF OJAI HAS A TOTAL  
3 POPULATION OF APPROXIMATELY 7,000 PEOPLE. WE DON'T CONSIDER  
4 OURSELVES TO BE A MAJOR PLAYER, BUT I WOULD LIKE  
5 CLARIFICATION ON THE RECORD.

6 THE COURT: MR. PISANO, WHO WOULD YOU CONSIDER TO BE  
7 MAJOR PLAYERS? THE STATE SURELY; RIGHT?

8 MR. PISANO: THE STATE, OBVIOUSLY. CASITAS. I WOULD  
9 CONSIDER THE CITY OF OJAI TO BE A MAJOR PLAYER. THEY ARE  
10 LOOKING AT THIS ISSUE, YOUR HONOR.

11 THE COURT: I DON'T DISAGREE WITH YOU. I AM NOT  
12 MAKING A RULING, BUT IF YOU KEEP GOING ON WITH YOUR LIST AND  
13 TRYING THEM IN RANK ORDER, TRY RANK ORDER FIRST, CASITAS  
14 NUMBER ONE?

15 MR. PISANO: YES, I WOULD PUT -- I WOULD PUT THE STATE  
16 AGENCIES AS NUMBER ONE, CASITAS AS NUMBER TWO, AND I WOULD  
17 PUT THE EAST OJAI GROUP AND THE CITY OF OJAI MAYBE BATTLING  
18 IT OUT FOR THE BRONZE.

19 THE COURT: DO YOU HAVE A FIFTH OR IT STOPS WITH THE  
20 SHARED BRONZE?

21 MR. PISANO: I THINK IT STOPS WITH THE SHARED BRONZE.

22 THE COURT: MR. PATTERSON, DO YOU HAVE A RETAINED  
23 EXPERT OR YOU EXPECT TO HAVE ONE BY SEPTEMBER 24?

24 MR. PATTERSON: WE HAVE A RETAINED EXPERT. I AM  
25 CURRENTLY DEALING WITH TWO ISSUES, YOUR HONOR. ONE IS WHO  
26 IN MY GROUP WANTS TO SUPPORT AN EXPERT WITNESS IN LITIGATION  
27 ISSUE FRANKLY. AND TWO, I'M GETTING MULTIPLE PHONE CALLS  
28 FROM LOTS OF PEOPLE WHO ARE LOOKING AROUND FOR EXPERTS AND

Original

11

1 ARE TRYING TO FIGURE OUT HOW TO HANDLE THAT.

2 SO, YOU KNOW, WE CAN MEET -- I TALKED TO MY  
3 EXPERT AND WE CAN MEET THE SEPTEMBER 24TH PROPOSAL, BUT  
4 THERE IS A POSSIBILITY THAT WE MAY BE COMING BACK TO THE  
5 COURT SAYING THAT CIRCUMSTANCES HAVE CHANGED AND WE NEED TO  
6 DEAL WITH THAT TO ALLOW ALL PARTIES TO PARTICIPATE WITH  
7 EXPERTS WHO WANT TO -- IT'S A COMPLICATED ISSUE FOR US  
8 BECAUSE WE HAVE CONFLICTS OF INTEREST, WE HAVE WHO IS WHO,  
9 WHERE, AND WHEN.

10 SO IT'S PRETTY COMPLICATED, BUT WE ARE -- THE  
11 GROUP AS CURRENTLY CONSTITUTED WILL MEET THE SEPTEMBER 24TH  
12 RESPONSE DATE. WE CAN DO THAT. I JUST WANT TO LET THE  
13 COURT KNOW THAT THERE MAY BE SOME ISSUES THAT COME UP GIVEN  
14 THE NUMBER OF PARTIES WHO WERE TRYING TO FIGURE OUT HOW TO  
15 DEAL WITH THIS WITH RESPECT TO THEIR OWN PROPERTIES. THERE  
16 MAY BE SOME ISSUES THAT COME UP.

17 THE COURT: THANK YOU. SO IN ADDITION TO THE STATE  
18 AND CASITAS, WOULD I SEE THE EAST OJAI GROUP TO BE A MAJOR  
19 PLAYER SUBJECT TO THE SEPTEMBER 24TH DEADLINE AND  
20 MS. JACOBSON?

21 YES, I WOULD ALSO PUT THE CITY OF OJAI IN THAT  
22 CATEGORY NOT WITHSTANDING THAT IT'S ONLY A POPULATION OF  
23 7,000. IT'S A REGISTERED IMPORTANT HEADWATERS TO THE  
24 VENTURA RIVER. AND I THINK ALSO AS A GOVERNMENT ENTITY, IT  
25 HAS A TAX BASE AND IT HAS AN ABILITY TO ACT AS SOMETHING OF  
26 A HUB WITH SOME OF THE RESIDENTS, BOTH THOSE WITHIN THE CITY  
27 LIMITS OF THE CITY OF OJAI AND THOSE THAT MAY PERHAPS BE A  
28 TAD EAST OR OTHERWISE BEYOND THE CITY LIMITS NEVERTHELESS

Original

12

1 FINDING THEMSELVES ALIGNED WITH THE CITY.

2 SO I THINK IT IS EQUITABLE TO EXPECT THE CITY  
3 TO MAKE A YES/NO COMMITMENT BY SEPTEMBER 24 AS TO WHETHER OR  
4 NOT YOU ARE HIRING AN EXPERT.

5 IF YOU, LIKE MR. PATTERSON'S TYPE OF  
6 CIRCUMSTANCE, KNOW YOU ARE GOING TO RETAIN AN EXPERT BUT FOR  
7 SOME REASON HAVE NOT GOTTEN FAR ENOUGH DOWN THE ROAD TO BE  
8 ABLE TO DO EVERYTHING THAT THE GROUNDWATER STATUTE  
9 CONTEMPLATES BECAUSE THAT DOES CONTEMPLATE REPORTS, NOT JUST  
10 LAWYER DECLARATIONS, MAKE AN EX PARTE APPLICATION TO THE  
11 COURT FOR GOOD CAUSE AFTER YOU HAVE TRIED TO NEGOTIATE WITH  
12 MR. PISANO AND MR. HAGERTY FOR MORE TIME.

13 MS. JACOBSON: YOUR HONOR, THANK YOU. I WOULD JUST  
14 SAY THAT AFTER SOME OF OUR PRIOR CONFERENCES AND INVITATIONS  
15 TO HELP STREAMLINE THE EFFORT OF THE INDIVIDUAL LANDOWNERS  
16 AND SIMILARLY-SITUATED PERSONS, OJAI HAS TAKEN A BIT OF THE  
17 LABORING OAR TO SEE IF WE CAN HELP STREAMLINE THAT AND  
18 LOOKING TOWARD WAYS TO DO THAT. THEREFORE, I DO NOT BELIEVE  
19 THE SEPTEMBER 24TH DEADLINE IS SOMETHING THAT WE CAN MEET IF  
20 THE DEADLINE WERE TO DISCLOSE THE EXPERT AND THE EXPERT  
21 REPORT. AS I UNDERSTAND IT, THE DEADLINE IS SIMPLY TO SAY  
22 YES, WE ARE OR NO, WE ARE NOT HIRING AN EXPERT.

23 IS THAT CORRECT?

24 THE COURT: WELL, I THINK IN FAIRNESS TO 843, WHICH  
25 GIVES ME THE POWER TO AUTHORIZE SEQUENTIAL DISCLOSURE, THERE  
26 IS SUPPOSED TO BE A REPORT, ALTHOUGH 843 MAY HAVE A LITTLE  
27 GRACE PERIOD BETWEEN THE DISCLOSURE AND THE PRODUCTION OF  
28 THE REPORT.



1 LET ME DOUBLE CHECK.

2 MS. JACOBSON: THE EXPERT AND THE REPORT, UNLIKE THE  
3 CIVIL DISCOVERY ACT, ARE TO BE DISCLOSED AT THE SAME TIME  
4 UNDER 843, ANOTHER REASON WHY THERE WAS A PUSH TO HAVE  
5 VENTURA RELEASE IT IN AUGUST. THE WHOLE POINT IS SO THAT  
6 THE OTHER PARTY CAN REALLY GET A GRASP ON WHAT EXACTLY  
7 VENTURA IS SAYING AND WHETHER OR NOT WHAT VENTURA HAS IN ITS  
8 POCKETS IS SOMETHING THAT ANY OR SOME OF THE PARTIES CAN  
9 AGREE TO WITHOUT PROVIDING ADDITIONAL EXPERTS ON POINT AND  
10 MOVING THIS CASE FORWARD OR OTHERWISE RETAINING THEIR OWN  
11 EXPERTS AND GOING FORWARD WITH THE SCHEDULING OF THE  
12 DEPOSITIONS.

13 ANOTHER REASON WHY THIS IS SO IMPORTANT TO GET  
14 VENTURA'S REPORT AND EXPERT DONE FIRST IS ALTHOUGH YOU HAVE  
15 PREVIOUSLY ORDERED THEM TO PROVIDE THE 10 MOST IMPORTANT  
16 DOCUMENTS THEY ARE RELYING ON, THEIR DISCLOSURE WAS ACTUALLY  
17 AN INITIAL DISCLOSURE OF SOME OF THE THINGS THEY ARE RELYING  
18 UPON, WHICH HAS NOT REALLY HELPED THIS CASE MOVE FORWARD AND  
19 NARROWED THE ISSUES.

20 SO THAT'S A LONG-WINDED WAY OF SAYING IT WOULD  
21 BE MY PREFERENCE FOR THE SEPTEMBER 24TH DEADLINE, AS IT  
22 APPLIES TO OJAI AT LEAST, TO BE A YES OR NO ANSWER AS TO  
23 WHETHER WE ARE HIRING AN EXPERT OR IN THE PROCESS OF HIRING,  
24 BUT THERE WILL BE -- WE REALLY NEED ADDITIONAL TIME IF THERE  
25 IS GOING TO BE A DEADLINE FOR PROVIDING THE DISCLOSURE AND A  
26 REPORT. AND THAT, I BELIEVE, CAN BE DONE BY OCTOBER.

27 AGAIN, THE ONLY REAL REASON THAT WE WOULD HAVE  
28 TO EXTEND IT THAT FAR IS GIVEN THE AMOUNT OF WORK -- THE



1 NUMBER OF EXPERTS IN THE FIELD ARE LIMITED AND THE AMOUNT OF  
2 WORK THEY ALREADY HAVE ON THEIR SHOULDERS.

3 THE COURT: SO MY VIEW IS FOR THE STATE, CASITAS, CITY  
4 OF OJAI, AND EAST OJAI GROUP, SEPTEMBER 24 IS TO BE IN  
5 COMPLIANCE WITH CCP SECTION 843, INCLUDING THE REPORT  
6 REQUIREMENT, BUT THIS, AS OF THE CASE WITH MR. PATTERSON'S  
7 INQUIRY, IS WITHOUT PREJUDICE TO YOU MAKING AN EX PARTE  
8 APPLICATION SOMETIME IN SEPTEMBER AFTER VENTURA HAS  
9 DISCLOSED ITS REPORT, SO YOU KNOW WHAT YOU ARE SHOOTING AT,  
10 BUT BEFORE SEPTEMBER 24 TO ASK FOR A DELAY IN THE REPORT  
11 PRODUCTION DEADLINE AND/OR A DELAY IN THE EXPERT  
12 IDENTIFICATION DEADLINE INHERENT IN 843 FOR GOOD CAUSE  
13 SHOWN. PARTICULARLY IF YOU ARE ONLY ASKING FOR A REPORT  
14 DELAY RATHER THAN AN EXPERT DISCLOSURE DELAY, IT'S A MODEST  
15 REQUEST AND MORE LIKELY TO BE GRANTED, BUT I WANT TO DEAL  
16 WITH THAT AFTER YOU HAVE ACTUALLY SEEN VENTURA'S REPORT AND  
17 SEE WHAT IT IS THAT YOU ARE SHOOTING AT. MAYBE YOU WILL  
18 FIND VENTURA'S REPORT QUITE SENSIBLE AND REASONABLE AND  
19 DECIDE THAT YOU CAN ADVOCATE YOUR CLIENT'S POSITION BY USING  
20 THE REPORT THAT SOMEBODY ELSE PREPARED AND SAVE YOURSELF THE  
21 EXPENSE, MS. JACOBSON.

22 MS. JACOBSON: THAT IS THE HOPE, YOUR HONOR.

23 THE COURT: OKAY. SO THAT WILL BE THE ORDER OF THE  
24 COURT.

25 DO YOU HAVE WHAT YOU NEED FOR GIVING NOTICE,  
26 MR. PISANO?

27 MR. PISANO: I DO, YOUR HONOR. I WOULD JUST REQUEST  
28 THAT IF THE EAST OJAI GROUP OR THE CITY OR ANY OTHER OF THE

1 MAJOR PLAYERS IS FINDING THEMSELVES IN A POSITION BEFORE  
2 AUGUST 31 THAT THEY KNOW THEY ARE NOT GOING TO BE ABLE TO  
3 MAKE THE DEADLINE WITH THE REPORT, THAT THEY GO IN EX PARTE  
4 BEFORE AUGUST 31 BECAUSE THE 31ST WILL BE A BIG DATE.  
5 THAT'S -- WE ARE GOING TO PUT OUR CARDS ON THE TABLE ON THAT  
6 DATE. SO IF THEY HAVE THE GOOD CAUSE BEFORE THEN, THEY  
7 SHOULD HAVE TO COME IN HERE SOONER SO THAT THE COURT CAN  
8 REACT AND POSSIBLY --

9 THE COURT: I DON'T SEE IT THAT WAY. I THINK THEY ARE  
10 ENTITLED TO SEE YOUR EXPERT REPORT AND 843 GIVES ME THAT  
11 POWER TO MAKE YOU PUT YOUR CARDS OUT FIRST.

12 MR. PISANO: FAIR ENOUGH, YOUR HONOR.

13 THE COURT: THERE ARE OTHERS WHO WANT TO BE HEARD.  
14 LET ME DEAL WITH OTHER PEOPLE WHO WANT TO SPEAK.

15 MR. OSIAS: THIS IS DAVID OSIAS FOR JEFF BACON AS  
16 TRUSTEE OF THE VILLA NERO TRUST.

17 THE COURT: YOU ARE A MINOR PLAYER TO MY  
18 UNDERSTANDING.

19 MR. OSIAS: I AM A ONE PROPERTY OWNER, ONE-WELL CLIENT  
20 WITH NO EXPERT.

21 THE COURT: SO SEPTEMBER 24 IS NOT RELEVANT TO YOU,  
22 BUT THE OCTOBER DATE WOULD BE.

23 MR. OSIAS: IT IS. BUT I WANTED TO START WITH YOUR  
24 HONOR'S OBSERVATION THAT YOU THOUGHT THE CITY HAD MERELY  
25 SAID LATE AUGUST. THEY ACTUALLY EXPRESSLY OFFERED AUGUST  
26 24. IT WAS IN THEIR SCHEDULE. THEY WANTED IT TO BE  
27 CONCURRENT, WHICH IS A SEPARATE ISSUE, BUT THEY SAID THEY  
28 COULD BE READY BY AUGUST 24, NOT ONLY "LATE AUGUST." AS

Original

16

1 SOMEONE WITHOUT AN EXPERT AND IS GOING TO BE SCRAMBLING WITH  
2 THIS SCHEDULE, THAT WEEK MAY MATTER. SO I WANTED TO BRING  
3 THAT TO YOUR ATTENTION. I THINK MR. HAGERTY AND MR. PISANO  
4 WOULD CONFIRM THAT THAT IS, IN FACT, WHAT THEY HAVE SAID.

5 THE COURT: MR. HAGERTY AND MR. PISANO, DO YOU WANT  
6 THE BENEFIT OF A DELAY FROM AUGUST 24 TO THE 31ST OR IS THIS  
7 ADVOCACY PIECE READY TO GO AND YOU MIGHT AS WELL SHOOT OFF  
8 YOUR ARTILLERY SOONER, RATHER THAN LATER?

9 MR. PISANO: YOUR HONOR, I WOULD REQUEST AUGUST 31.  
10 IT IS NOT AN ADVOCACY PIECE, IT IS A SCIENTIFIC EXPERT  
11 ANALYSIS, BUT I WOULD REQUEST AUGUST 31 IF THE COURT IS  
12 INCLINED TO LET THE CITY GO FIRST.

13 THE COURT: I WILL LET YOU HAVE IT.

14 MR. OSIAS, THE CITY OF VENTURA IS ANNOYED  
15 ENOUGH WITH WHAT I AM DOING, I WILL GIVE THEM THE WEEK.

16 MR. OSIAS: I WOULD TAKE THE RESPONSE THE EXACTLY THE  
17 SAME WAY. THANK YOU, YOUR HONOR.

18 THE COURT: BEFORE COURT STARTED, WE WERE MAKING SMALL  
19 TALK WHEN I INDICATED A CONFUSION ABOUT THE START TIME.  
20 MR. PISANO WAS GRACIOUS IN SAYING, "YOU NEVER REALLY WANT TO  
21 TELL THE COURT THEY ARE WRONG." SO HE HAS HAD A HARD ENOUGH  
22 TIME TELLING ME THAT ELEGANTLY TODAY.

23 MR. PISANO: I THINK MR. COSGROVE SAID THAT, YOUR  
24 HONOR.

25 THE COURT: WHATEVER. IT WAS ONE OF YOU GENTLEMEN  
26 HERE IN COURT IN PERSON.

27 MR. OSIAS: THE SECOND POINT HAS, I THINK, BEEN  
28 UNDERSTOOD, BUT I WANT TO MAKE SURE THAT THERE IS NOT ANY

1 AMBIGUITY ABOUT IT, 843 IS ACTUALLY IN FOUR PARTS. "A" HAS  
2 TO DEAL ONLY WITH DISCLOSURE OF IDENTITY.

3 "B" IS THE DISCLOSURE OF THE REPORT. AND IT  
4 SAYS, "UNLESS THE COURT ORDERS OTHERWISE, THE DISCLOSURE  
5 SHOULD BE DONE AT THE SAME TIME AS THE IDENTITY."

6 "C" SAYS, IF YOU DON'T ORDER IT AT THE SAME  
7 TIME, THEN A SUMMARY. I'M PARAPHRASING, BUT YOUR HONOR  
8 COULD LOOK THIS UP EXACTLY.

9 SO IN TERMS OF THOSE OF US -- I WILL PAUSE FOR  
10 A MINUTE IF YOUR HONOR WANTS TO LOOK AT THOSE THREE  
11 SECTIONS.

12 THE COURT: GIVE ME A SECOND HERE.

13 MR. OSIAS: OKAY.

14 THE COURT: I APPRECIATE BEING POINTED TO THIS,  
15 MR. OSIAS.

16 AGAIN, I THINK PEOPLE WHO WANT TO INVOKE THIS  
17 TO MOVE AWAY FROM THE DEFAULT PROVISIONS OF 843(B) SHOULD  
18 USE AN EX PARTE MADE SOMETIME AFTER THEY SEE THE CITY OF  
19 VENTURA'S REPORT AND THEN INVOKE THE POWERS I APPEAR TO HAVE  
20 UNDER 843(B) AND C TO SUGGEST EITHER A SUBSTITUTE VERSION OF  
21 THE DISCLOSURE AND/OR PHASING OF THE DISCOVERY DISCLOSURE  
22 OBLIGATIONS, MR. OSIAS.

23 MR. OSIAS: OKAY. SO I THINK YOU ARE ANSWERING THE  
24 QUESTION I WAS ABOUT TO ASK, BUT I WANT TO MAKE SURE THAT I  
25 GET IT OUT JUST TO BE CERTAIN.

26 THE COURT: COME BACK IN SEPTEMBER. COME BACK IN  
27 SEPTEMBER IF YOU WANT TO BE RELIEVED OF THE OBLIGATION TO  
28 MAKE A FULL-FLEDGED DISCLOSURE UNDER 843(B) IF YOU HAVE

Original

18

1 HIRED AN EXPERT AND HAVE DONE SO BY SEPTEMBER 24TH SUCH THAT  
2 YOU FEEL THAT YOU NEED TO BE MAKING A DISCLOSURE ON  
3 SEPTEMBER 24TH.

4 MR. OSIAS: AND OUR DEADLINE RIGHT NOW, AS I  
5 UNDERSTAND YOUR ORDER, IS THAT ON OCTOBER 24 --

6 THE COURT: I GUESS THAT'S RIGHT BECAUSE YOU HAVE GOT  
7 A SMALL PLAYER, SO YOU CAN KEEP YOUR CARDS IN THE POCKET  
8 UNTIL OCTOBER 24, BUT IF YOU WANT TO LIMIT WHAT YOU ARE  
9 DOING ON OCTOBER 24, EITHER TAKE IT UP AT THE STATUS  
10 CONFERENCE IN AUGUST OR SEPTEMBER AND/OR MAKE AN EX PARTE  
11 APPLICATION SOMETIME IN SEPTEMBER OR OCTOBER TO CLARIFY THE  
12 NATURE OF YOUR OBLIGATION ON OCTOBER 24.

13 MR. OSIAS: THANK YOU, YOUR HONOR. IT'S POSSIBLE THAT  
14 WE MIGHT BE ABLE TO DO 843(C) BY OCTOBER 24, BUT NOT --

15 THE COURT: THAT MAY BE WHERE I WOULD LAND ALSO TO  
16 SAVE THE MINOR PLAYERS EXPENSE, BUT I'M NOT MAKING AN  
17 EXPRESS ORDER AS TO OCTOBER 24. I HAVE TO CLARIFY THAT  
18 BETWEEN NOW AND OCTOBER 24.

19 MR. OSIAS: THANK YOU, YOUR HONOR. THAT'S WHAT I WAS  
20 ASKING.

21 THE COURT: THE RULING OF TODAY CAN INDICATE THAT THE  
22 COURT HAS NOT YET FULLY DEFINED THE PARAMETERS OF THE  
23 OBLIGATION ON OCTOBER 24, BUT THE OBLIGATION ON SEPTEMBER 24  
24 IS TO COMPLY WITH 843(B) UNLESS THE COURT HEREAFTER, FOR  
25 GOOD CAUSE SHOWN, MODIFIES THAT OBLIGATION.

26 OTHER PEOPLE WHO WANT TO BE HEARD? OKAY.

27 MR. MELNICK: YOUR HONOR, THIS IS MARC MELNICK.

28 THE COURT: HI. GREETINGS.

Original

19

1 MR. MELNICK: HOW ARE YOU, SIR?

2 THE COURT: PRETTY GOOD.

3 MR. MELNICK: I HAVE A -- I DON'T HAVE ANY CONCERNS  
4 WITH WHAT YOU HAVE RULED ALREADY. I HAVE ONE CLARIFYING  
5 QUESTION, AND/OR I GUESS TWO CLARIFYING QUESTIONS. THE  
6 FIRST IS I THOUGHT THAT YOU HAD SAID THAT THE MINOR PLAYERS  
7 WERE TO DISCLOSE ON OCTOBER 22ND, WHICH IS A FRIDAY, NOT  
8 OCTOBER 24TH, WHICH IS A SUNDAY.

9 THE COURT: I PROBABLY DID BECAUSE THERE IS NO REASON  
10 TO MAKE A SUNDAY A DEADLINE.

11 DID YOU CATCH A DATE, JOHN?

12 THE CLERK: SEPTEMBER 24TH AND OCTOBER 22ND.

13 THE COURT: YEAH. THE JUDICIAL ASSISTANT GOT IT AS  
14 OCTOBER 22. YOU ARE CORRECT, MR. MELNICK.

15 MR. MELNICK: THANK YOU, YOUR HONOR.

16 AND THEN MY SECOND QUESTION IS: IS THE COURT  
17 INCLINED TO ORDER THE OTHER PRETRIAL DATES THAT THE CITY  
18 PROPOSED OR DO WE NEED TO TALK ABOUT THOSE?

19 THE COURT: BEAR WITH ME.

20 MR. MELNICK: BECAUSE --

21 THE COURT: THE BRIEFS I LOOKED AT WERE THE ONES  
22 FOCUSED ON THIS QUESTION. SO I GUESS I HAVE TO BACK UP TO  
23 SOME DIFFERENT STATUS REPORT. GIVE ME THE DATE OF THE  
24 STATUS REPORT AND I WILL TRY TO PULL IT UP ELECTRONICALLY.

25 MR. MELNICK: I AM ACTUALLY NOT SURE WHAT DOCUMENT  
26 MR. PISANO ATTACHED THIS TO.

27 MR. PISANO: YOUR HONOR, IT WAS -- IT IS THE REPORT  
28 THAT THE CITY SUBMITTED FOR THE JULY 6TH STATUS CONFERENCE,

Original

20

1 IT WAS FILED ON JULY 2ND.

2 THE COURT: HANG ON.

3 ON A DIFFERENT NOTE, I WOULD ASK THE CITY OF  
4 VENTURA TO WORK WITH COURT STAFF, PARTICULARLY  
5 MR. SANCHEZ -- WE WILL DO OUR PART TO TRY TO PULL TOGETHER  
6 WHAT WE HAVE IN TERMS OF HARD COPIES OF OBJECTIONS TO THE  
7 PHYSICAL SOLUTION AND WE MAY NOT HAVE ALL OF THEM, EITHER  
8 BECAUSE YOU CAME SO EARLY WHEN PEOPLE WERE COMPLAINING ABOUT  
9 A DOCUMENT I HAVE NOT SEEN, WE LET IT BASICALLY BE CAST  
10 ASIDE AFTER IT WAS SCANNED. BUT TO TRY TO BE SURE I HAVE A  
11 COMPLETE RECORD WITHOUT REGARD TO THE DATE ON WHICH THESE  
12 ITEMS WERE SERVED AND FILED, BUT SO THAT I HAVE A FULL SET  
13 OF THE CRITIQUES OF THE PHYSICAL SOLUTION THAT HAD BEEN  
14 LODGED OR FILED WITH THE COURT -- THEY SHOULD ALL BE FILED,  
15 FRANKLY -- BUT THEY HAVE BEEN FILED WITH THE COURT UP UNTIL  
16 NOW, SO THAT I COULD HAVE THEM AS A READING STACK BECAUSE I  
17 DON'T WANT TO TAKE THE TIME TO TRY TO GO BACK THROUGH ALL  
18 THE RECORDS. IF YOU COULD SEND A PARALEGAL HERE TO WORK  
19 WITH MR. SANCHEZ TO BE SURE THAT BETWEEN WHAT WE CAN FIND IN  
20 OUR WORKING PAPERS VERSUS WHAT YOU ARE GOING TO ADD IN, IT  
21 BECOMES A COMPLETE PHYSICAL SET OF ALL THE PAPERS.

22 IS THAT A FAIR REQUEST, MR. PISANO?

23 MR. PISANO: THAT IS FAIR, YOUR HONOR.

24 THE COURT: LET ME FIND THE DOCUMENT IN QUESTION.

25 JULY 2 IS THE SERVICE DATE. STATUS CONFERENCE REPORT.

26 OKAY.

27 PROPOSED DISCOVERY AND PRETRIAL SCHEDULE. SO

28 JUNE 21, DISCOVERY STAY IS LIFTED.



Original

21

1 PRESUMEABLY WE HAVE LIFTED THE DISCOVERY STAY,  
2 RIGHT, MR. PISANO?

3 MR. PISANO: THAT'S CORRECT, YOUR HONOR.

4 THE COURT: OKAY. SEPTEMBER 24 WAS GOING TO BE THE  
5 FIRST DAY FOR INITIAL EXPERT WITNESS DISCLOSURES. THAT'S  
6 BEEN MODIFIED BY ME. YOU HAVE GOT THE MODIFICATIONS.

7 THIS SCHEDULE CONTEMPLATED THAT PERCIPIENT  
8 DISCOVERY WOULD CUT OFF OCTOBER 15. IS THAT STILL A  
9 REASONABLE DEADLINE FROM YOUR POINT OF VIEW, MR. PISANO?

10 MR. PISANO: YES, IT IS, YOUR HONOR.

11 THE COURT: MR. MELNICK, DO YOU WISH TO OBJECT TO THAT  
12 OR ANYBODY ELSE WISH TO BE HEARD TO OBJECT TO THAT?

13 MR. MELNICK: THIS IS MARC MELNICK. I DON'T HAVE ANY  
14 OBJECTION TO ANY OF THE OTHER DATES. I JUST WANTED SOME  
15 CLARIFICATION.

16 THE COURT: THANK YOU. I CAN RECITE THE OTHER DATES  
17 IF PEOPLE NEED TO BE AWARE OF THEM TO SEE IF THERE ARE GOING  
18 TO BE OBJECTIONS. PRESUMABLY AT THIS POINT YOU MAY HAVE A  
19 RECOLLECTION OF WHETHER YOU WERE ACCEPTING OR IN OPPOSITION  
20 OF VENTURA'S PROPOSAL.

21 DO YOU REMEMBER, MR. PISANO, GETTING ANY  
22 EXPRESS OBJECTIONS BY BRIEFS OR OTHERWISE TO THIS SCHEDULE  
23 APART FROM THE QUESTION OF MUTUALITY AND THE DATE OF THE  
24 EXPERTS?

25 MR. PISANO: OTHER THAN THE EXPERT ISSUE, I DON'T  
26 BELIEVE WE RECEIVED ANY OTHER OBJECTIONS.

27 MR. OSIAS: YOUR HONOR, THIS IS DAVID OSIAS.

28 I BELIEVE WE IDENTIFIED A CONCERN THAT THE



Original

22

1 MOTION, THE DISPOSITIVE MOTION CUT-OFF DATE IS AFTER THE  
2 CLOSE OF EXPERT WITNESS DEPOS AND IT'S NOT EVERY DISPOSITIVE  
3 MOTION IS SUCCESSFUL AND COMMON COURT RULING IS THERE ARE  
4 TRIABLE ISSUES, IT SEEMS THAT SEQUENCING, THOUGH, IS NOT  
5 IDEAL TO THE EXTENT YOU WANT TO FLESH OUT THE TRIABLE ISSUE.  
6 AND IF DISCOVERY IS ALL CLOSED, THAT'S GOING TO BE A LITTLE  
7 BIT HARDER TO DO THAT.

8 SO I WAS THINKING THAT THOSE DATES SHOULD BE  
9 SWAPPED. I RAISED THAT IN A MEET AND CONFER. I POINTED IT  
10 OUT IN GENERAL TERMS IN MY STATUS CONFERENCE STATEMENT.

11 I HAVE NOT HAD A RESPONSE. I DON'T KNOW IF THE  
12 COURT THINKS THAT'S A REASONABLE CONCERN OR NOT.

13 THE COURT: LET ME BACK UP AND SEE IF I UNDERSTAND  
14 WHAT YOU ARE SAYING. THIS IS MR. OSIAS, I BELIEVE?

15 MR. OSIAS: YES.

16 THE COURT: SO YOUR CONCERN IS THE EXPENSIVE EXPERT  
17 WITNESSES IS INCURRED BEFORE YOU GET A RULING ON SUMMARY  
18 JUDGMENT OR SUMMARY ADJUDICATION WHEREAS YOU HOPE I REACH  
19 SUMMARY JUDGMENT OR SUMMARY ADJUDICATION BEFORE ALL THE  
20 EXPERT EXPENSE HAS TO BE INCURRED?

21 MR. OSIAS: NO, I'M SORRY. THAT ISN'T WHAT I MEANT.  
22 I MEANT THAT DISCOVERY ENDS BEFORE DISPOSITIVE MOTIONS WILL  
23 BE HEARD AND THAT THE RESULT OF DISPOSITIVE MOTIONS MIGHT  
24 BOTH NARROW ISSUES, BUT IDENTIFY SOME TRIABLE ISSUES OF FACT  
25 BEFORE DISCOVERY, LIKE DEPOS, IS NOT COMPLETE.

26 THE COURT: WELL, IF SOMETHING REALLY EMERGES IN THE  
27 COURSE OF ANALYZING SUMMARY JUDGMENT OF A REAL STICKY POINT  
28 OF SOME FACT ISSUE, I WILL LEAVE IT TO GOOD COUNSEL TO

Original

23

1 SUGGEST THAT I REOPEN DISCOVERY FOR GOOD CAUSE. BUT  
2 OTHERWISE, I HAVE TO SAY AS A JUDGE OF 20 PLUS YEARS AND A  
3 LAWYER BEFORE THAT OF 20 PLUS YEARS, GENERALLY SPEAKING, YOU  
4 BRING YOUR DISPOSITIVE MOTION AFTER ALL OR VIRTUALLY ALL  
5 DISCOVERY HAS BEEN COMPLETED BECAUSE THEN IT'S FAIR TO MAKE  
6 YOU PUT YOUR CARDS ON THE TABLE REGARDING A POTENTIALLY  
7 DISPOSITIVE MOTION.

8 SO THAT DOES NOT STRIKE ME AS ODD AT ALL. IF  
9 THERE IS SOMETHING IN THE ADJUDICATION OF SUMMARY JUDGMENT  
10 OR SUMMARY ADJUDICATION THAT HIGHLIGHTS AN ISSUE WHERE A  
11 LITTLE LAST-MINUTE DISCOVERY OUGHT TO BE DONE OR GOD FORBID  
12 THE TRIAL IS DELAYED TO ALLOW NECESSARY DISCOVERY, I WOULD  
13 TEND TO DO THAT AS A REACTIVE ANALYTICAL EXERCISE ONCE THE  
14 SUMMARY JUDGMENT OR SUMMARY ADJUDICATION PROCESSES HELP  
15 EDUCATE ME.

16 THAT WOULD BE MY FULL COMMENT ON THAT.

17 MR. OSIAS: THANK YOU. I APPRECIATE THAT. I WAS SORT  
18 OF CONTEMPLATING THAT 90 PERCENT OF THE ATTENTION OF BOTH  
19 THE EXPERTS AT THEIR DEPOS IS GOING TO BE ON MAJOR PLAYERS.  
20 SO, YOU KNOW -- AND WE ARE LATE TO THE GAME, OBVIOUSLY, BUT  
21 WE WILL TAKE IT UP IN THE WAY YOU SAID. WE WILL SEE HOW  
22 THAT GOES. I APPRECIATE YOUR ADDRESSING IT.

23 THE COURT: LET ME ASK YOU THIS ABOUT YOUR SCHEDULE,  
24 MR. PISANO AND MR. HAGERTY: DO I NEED TO TWEAK IT AT ALL  
25 OTHER THAN WHAT I'VE DONE ABOUT EXPERTS?

26 YOU HAVE A NOVEMBER 12TH DATE AS THE SECOND  
27 DATE FOR INITIAL EXPERT WITNESS DISCLOSURES, WHICH I GUESS  
28 IS, TO SOME EXTENT, A PROXY FOR WHAT I WOULD OTHERWISE PUT

1 DOWN FOR OCTOBER 22?

2 MR. PISANO: YEAH.

3 THE COURT: SO I AM ACTUALLY ADVANCING YOUR NOVEMBER  
4 12TH DATE, HYPOTHETICALLY, TO OCTOBER 22. DO YOU LIKE THAT  
5 I ADVANCE IT OR DO YOU SUGGEST I PUSH IT BACK TO YOUR DATE  
6 OF NOVEMBER 12TH AND MAKE IT SUBJECT TO THIS VERBIAGE?

7 I AM WILLING TO ADOPT THE WISDOM OF YOUR  
8 NOVEMBER 12TH DEADLINE IN LIEU OF WHAT I HAVE BEEN SKETCHING  
9 OUT FOR OCTOBER 22. IT SOUNDS CLOSER TO WHAT MR. OSIAS AND  
10 SOME OTHERS HOPE TO HAVE HAPPEN.

11 MR. PISANO: I THINK THE OCTOBER 22 IS FINE, YOUR  
12 HONOR.

13 THE COURT: THE WAY I HAVE SKETCHED IT OUT?

14 MR. PISANO: THE WAY YOU HAVE SKETCHED IT OUT.

15 THE COURT: SO THEN I DELETE YOUR NOVEMBER 12TH  
16 VERBIAGE?

17 MR. PISANO: YES.

18 THE COURT: BUT WE DO ADOPT OCTOBER 15TH AS PERCIPIENT  
19 WITNESS CUT-OFF; NOVEMBER 3 FOR SUMMARY JUDGMENT/SUMMARY  
20 ADJUDICATION FILING.

21 MR. PISANO: ACTUALLY, YOUR HONOR, ON THAT ONE, I WENT  
22 BACK AND COUNTED AFTER THE FACT, NOVEMBER 5 WOULD BE --  
23 ACTUALLY, IT'S NOVEMBER 6TH WOULD BE THE 75TH DAY, WHICH IS  
24 A SATURDAY. SO I THINK NOVEMBER 5 WOULD BE THE DEADLINE TO  
25 FILE AN MSJ OR MSA.

26 THE COURT: WELL, IN THEORY, WITH E-FILING, THERE ARE  
27 TWO MORE DAYS FOR CASE ANYWHERE OR FILE&SERVE XPRESS.

28 MR. PISANO: GOOD POINT. THAT IS PROBABLY WHY IT

Original

25

1 ENDED UP AS THE 3RD.

2 THE COURT: LET'S STAY WITH NOVEMBER 3.

3 DO YOU HAVE A HEARING DATE, I DIDN'T SEE ONE IN  
4 THERE?

5 MR. PISANO: I DID PUT JANUARY 21 AS A LAW AND MOTION  
6 CUT-OFF DATE FOR ALL MOTIONS, OTHER THAN MOTIONS IN LIMINE.

7 THE COURT: SO THAT'S ANOTHER WAY OF SAYING THAT IS  
8 YOUR PROPOSED HEARING DATE?

9 MR. PISANO: FOR ANY SUMMARY JUDGMENT MOTIONS, YES.

10 THE COURT: FINE. I WILL RESERVE FRIDAY, JANUARY 21,  
11 AT 10:00 A.M. FOR ANY SUMMARY JUDGMENT/SUMMARY ADJUDICATION  
12 MOTIONS AND OTHER MOTION PRACTICE. MODIFY YOUR NOTICE  
13 ACCORDINGLY.

14 DECEMBER 10, SUPPLEMENTAL EXPERTS. THAT'S OKAY  
15 BY ME.

16 SO FAR SO GOOD?

17 MR. PISANO: THAT'S FINE, YOUR HONOR.

18 THE COURT: JANUARY 14, EXPERT DEPO CUT-OFF. FINE.

19 FOR THESE PURPOSES, YOU MEAN THEM NOT JUST TO  
20 BE COMMENCED, BUT ACTUALLY TO BE DONE?

21 MR. PISANO: CORRECT, YOUR HONOR.

22 THE COURT: MAKE THAT CLEAR.

23 JANUARY 21, PRETRIAL STATEMENTS, EXHIBIT LIST,  
24 WITNESS LIST, MOTIONS IN LIMINE, AND TRIAL BRIEFS, FINE.

25 JANUARY 21, RESERVED FOR HEARING.

26 JANUARY 28, RESPONSES TO MOTIONS IN LIMINE,  
27 EXCHANGE EXHIBITS. FINE.

28 FEBRUARY 2, 10:00 A.M., FINAL STATUS

1 CONFERENCE, YES.

2 AND FEBRUARY 14, 10:00 A.M., START OF A COURT  
3 TRIAL.

4 HOW MANY DAYS SHOULD WE BE RESERVING FOR THIS  
5 COURT TRIAL IN YOUR VIEW, MR. PISANO?

6 MR. PISANO: I BELIEVE WE DISCUSSED IT, IT WAS -- I  
7 THINK 10 TO 15 IS WHAT WE HAD PREVIOUSLY DISCUSSED.

8 THE COURT: IT GOT ON CALENDAR FOR 10 TO 15 DAYS. SO  
9 WE WILL MAKE A NOTE THAT IT IS INTENDED TO BE A 10 TO 15-DAY  
10 COURT TRIAL.

11 OKAY. I'M GLAD THIS CAME UP. THANK YOU,  
12 MR. MELNICK. IT'S GOOD THAT WE GOT TO THIS POINT.

13 OTHER THINGS WE ARE FORGETTING TO ADDRESS,  
14 MR. MELNICK?

15 MR. MELNICK: NOTHING THAT WE HAVE RAISED WITH YOU  
16 PRIOR, YOUR HONOR, BUT THERE IS AN ISSUE THAT I THINK WE  
17 MIGHT WANT TO TALK ABOUT TODAY WITH YOU, AND THAT'S WHETHER  
18 THIS TRIAL IS GOING TO BE LIVE OR WHETHER YOU WOULD PREFER  
19 IT TO BE BY DECLARATION. WE DON'T HAVE TO RESOLVE THAT NOW,  
20 BUT IT HAS TO DO WITH THE SCHEDULE.

21 THE COURT: THERE ARE SOME PEOPLE WHO THINK TRIALS ON  
22 DECLARATION WITH TESTIMONY LIMITED TO CROSS-EXAMINATION IS  
23 GENIUS. I HAVE NOT, IN MY EXPERIENCE, FOUND IT ALL THAT  
24 HELPFUL, AND PERHAPS JUST BECAUSE I AM A SLOW LEARNER. BUT  
25 AT THE MOMENT, I THINK I WOULD PREFER TO BE EDUCATED IN THE  
26 COURTROOM BY A WITNESS ON THE STAND.

27 MR. MELNICK: THAT'S WHAT I WANTED TO ASK, YOUR HONOR.  
28 THANK YOU.

Original

27

1 THE COURT: OTHER QUESTIONS?

2 MS. BLISS: YOUR HONOR --

3 THE COURT: WHO IS SPEAKING?

4 MS. BLISS: LOA BLISS FOR UPPER OJAI.

5 I MAY BE DISCLOSING MY INCREDIBLE NAIVETE ON  
6 THE WAY THESE TRIALS UNFOLD, BUT I AM WONDERING WHY THERE  
7 IS -- IF I UNDERSTAND WHAT A PERCIPIENT WITNESS ACTUALLY  
8 IS -- WHY IS THERE A CUT-OFF SO EARLY? IT MIGHT BE THAT  
9 THERE MAY BE PERSONS WHO CAN'T ACTUALLY HAVE A QUALIFIED  
10 EXPERT, BUT WILL BE ABLE TO CALL PEOPLE WHO KNOW A LOT ABOUT  
11 THE GEOLOGY OF A PARTICULAR BASIN THAT MAY NOT BE CERTIFIED  
12 OR TECHNICALLY QUALIFIED. WHY SO EARLY?

13 IT SEEMS TO ME LIKE IT MIGHT BE USEFUL TO BE  
14 ABLE TO HAVE THE CUT-OFF DATE AFTER THE SMALL PARTIES HAVE  
15 DECIDED WHETHER THEY ARE GOING TO CALL AN EXPERT OR AFTER  
16 THEY HAVE IDENTIFIED AN EXPERT BECAUSE SUCH TESTIMONY COULD  
17 BE IN TANDEM WITH AN EXPERT OR AN EXPERT MAY RECOMMEND  
18 HAVING SOME EXTRA TESTIMONY.

19 THAT'S ALL. IT JUST SEEMED A LITTLE  
20 PRECIPITOUS. THAT'S ALL, IF I AM UNDERSTANDING THINGS  
21 CORRECTLY, AND I MAY NOT.

22 THE COURT: WELL, YOU RAISED AN INTERESTING POINT,  
23 MA'AM. I WOULD, AGAIN, OFFER THIS COMMENT FROM MY  
24 EXPERIENCE AS A LAWYER AND A JUDGE AND NOW CANDIDLY, ALL OF  
25 MY EXPERIENCE IS OUTSIDE THE CONTEXT OF ADJUDICATING WATER  
26 CASES. THIS IS THE FIRST WATER CASE I HAVE HAD AS A JUDGE  
27 AND I NEVER HAD A WATER CASE AS A LAWYER. BUT NOW SPEAKING  
28 OF ALL THAT OTHER EXPERIENCE IN A SOMEWHAT DIFFERENT

**Original**

28

1 CONTEXT, NORMALLY SPEAKING, WHETHER IT'S AN AUTO ACCIDENT, A  
2 SLIP AND FALL, A WRONGFUL TERMINATION CASE, A BREACH OF  
3 CONTRACT CASE, A DEFAMATION CASE, SOME CASES HAVE A FEW  
4 EXPERTS, LIKE IN AN INJURY CASE, THEY MAY BE ABOUT MEDICAL  
5 DAMAGES OR LOST WAGES. IN A PRODUCT LIABILITY CASE, THEY  
6 MAY BE SIMPLY TRYING TO PROVE LIABILITY AND MAY OR MAY NOT  
7 BE IMPORTANT TO DAMAGES. IN OTHER KINDS OF CASES, IT'S ALL  
8 ABOUT THE EXPERTS AND THE PERCIPIENT WITNESSES DON'T COUNT  
9 FOR MUCH OF ANYTHING.

10 BUT GENERALLY SPEAKING, WHAT YOU DO, AND I AM  
11 SPEAKING ABOUT LITIGATION GENERALLY, NOT ABOUT WATER CASES,  
12 IS YOU GO TALK TO THE PERCIPIENT WITNESSES WHO ACTUALLY SAW  
13 THE AUTO ACCIDENT OR TREATED THE PATIENT AFTER HE GOT  
14 INJURED OR HEARD THE DEFAMATORY STATEMENTS OR ARE AWARE OF  
15 THE CIRCUMSTANCES THAT DO OR DON'T DEMONSTRATE THE TRUTH OR  
16 FALSITY OF THE SUPPOSEDLY DEFAMATORY STATEMENT, OR WERE  
17 AWARE OF THE CIRCUMSTANCES IN THE WORKPLACE THAT GAVE RISE  
18 TO THE WRONGFUL TERMINATION CASE, YOU TALK TO THE PEOPLE WHO  
19 SORT OF SAW THE EVENTS AS STEP ONE AND YOU SAVE THE  
20 EXPENSIVE EXPERTS TO THE END. IN PART, BECAUSE EXPERIENCE  
21 IS MANY OF THOSE KIND OF CASES SETTLE PART WAY THROUGH THIS  
22 DISCOVERY PROCESS AND YOU CAN AVOID THE EXPENSIVE EXPERTS,  
23 AND, IN PART, IT'S BECAUSE TYPICALLY SOME OR ALL OF THIS  
24 DISCOVERY IS NECESSARY TO ASSEMBLE THE FACTS ON WHICH AN  
25 EXPERT WILL OFFER THEIR OPINION, WHETHER THEY ARE MEDICAL  
26 RECORDS OR HOW LONG SOMEBODY HAD TO STAY AWAY FROM WORK ON  
27 ACCOUNT OF THEIR INJURIES, AND SUCH LIKE. AND THEN YOU PUT  
28 THE EXPERTS AT THE VERY END.



Original

29

1 INDEED, THE STATUTORY PROVISIONS REALLY ASSUME  
2 THAT THE EXPERTS ARE REALLY DONE IN THE LAST 30 DAYS, WHICH  
3 PROBABLY WORKS FOR YOUR AVERAGE AUTO ACCIDENT CASE, BUT DOES  
4 NOT WORK FOR CASES THAT ARE AS EXPERT INTENSIVE AS THIS.

5 BUT THAT'S HOW WE COME TO THINK THAT WE ARE  
6 GOING TO TALK TO ALL THE PERCIPIENT WITNESSES WHO HAVE  
7 SOMETHING USEFUL IN THE NEXT EIGHT WEEKS OR THEREABOUTS  
8 BECAUSE OCTOBER 15TH IS NOT THAT LONG FROM NOW IN THE GRAND  
9 SCHEME OF THINGS. AND THEN TURN OUR ATTENTION TO EXPERTS  
10 AND MOTION PRACTICE. IF IT TURNS OUT THAT FOR SOME REASON  
11 THERE ARE PARTIES WHO WANT TO OFFER TESTIMONY THAT WILL COME  
12 FROM A PERCIPIENT WITNESS FIRST, INSOFAR AS YOU HAVE A RIGHT  
13 TO PARTICIPATE AT TRIAL, WHICH I SUSPECT YOU WOULD AS YOU  
14 ARE A PARTY IN THE CASE, WHETHER OR NOT SOMEBODY IS DEPOSED  
15 DOESN'T LIMIT WHETHER OR NOT YOU COULD CALL THEM AS YOUR  
16 WITNESS AT TRIAL. SO WHO YOU CALL AS A WITNESS AT TRIAL IS  
17 A DIFFERENT QUESTION.

18 NOW, IF YOU HAVE A WITNESS WHO IS IN ARIZONA  
19 AND THEY WON'T COME TO L.A. TO TESTIFY, YOU WILL REGRET THAT  
20 YOU DID NOT DEPOSE THEM BECAUSE IF YOU CAN'T GET THEM INTO  
21 COURT PHYSICALLY, THEN YOU HAVE TO USE THE DEPOSITION AS A  
22 SUBSTITUTE FOR GETTING THEM TO COME.

23 BUT IF YOU COULD GET THEM TO WALK INTO THE  
24 COURTROOM, GET ON THE WITNESS STAND, TAKE AN OATH AND  
25 TESTIFY, THEN, IN THEORY, YOU ARE FINE WHETHER OR NOT THEY  
26 WERE DEPOSED. AND INDEED, IN SOME WAYS YOU WOULD BE HAPPY  
27 IF THEY WERE NOT DEPOSED, BECAUSE NOBODY KNOWS HOW TO CROSS-  
28 EXAMINE THEM. GENERALLY SPEAKING, YOU SORT OF LIKE THAT.



Original

30

1 SO WHETHER SOMEBODY IS DEPOSED IS A DIFFERENT  
2 QUESTION FROM WHETHER THEY CAN BE OFFERED AS A TRIAL  
3 WITNESS. AND I DOUBT YOU ARE GOING TO HAVE THE CIRCUMSTANCE  
4 WHERE YOU HAVE GOT SOME HELPFUL WITNESS, BUT FOR WHATEVER  
5 REASON, THEY WON'T COME TO THE COURTHOUSE ON YOUR BEHALF. I  
6 ASSUME THAT IF YOU GOT SOMEBODY THAT IS HELPFUL, THEY WOULD  
7 BE WILLING TO COME TO DOWNTOWN LOS ANGELES AND COME TO THE  
8 COURTROOM AND TAKE A OATH.

9 DOES THAT HELP CLARIFY ANYTHING FOR YOU,  
10 MS. BLISS?

11 MS. BLISS: YES, IT DOES. THANK YOU VERY MUCH. I  
12 JUST DID NOT WANT TO BE CUT OFF FROM HAVING THE TESTIMONY  
13 AVAILABLE WHENEVER IT MIGHT BE CONVENIENT TO DO THAT. SO I  
14 UNDERSTAND THAT DISCOVERY MEANS THEY HAVE TO BE AVAILABLE.  
15 I WOULD NOT KNOW WHO THESE PEOPLE WOULD BE UNTIL I COULD  
16 CONSULT WITH AN EXPERT, BUT I HAVE A PRETTY GOOD IDEA.

17 BUT YOU ARE CORRECT. THANK YOU VERY MUCH FOR  
18 THE CLARIFICATION. I APPRECIATE THAT. I THINK THEY MAY  
19 APPEAR AT TRIAL IF IT GETS THAT FAR.

20 THE COURT: AGAIN, IF YOU WERE TRYING TO ADVOCATE A  
21 POSITION AT TRIAL, AT SOME POINT, YOU HAVE GOT TO FIND YOUR  
22 WITNESSES. THEY HAVE TO BE COMPETENT AND KNOW WHAT THEY ARE  
23 TALKING ABOUT.

24 SO I AM NOT GOING TO GO FIND THEM FOR YOU,  
25 MR. HAGERTY'S JOB IS NOT TO GO FIND THEM FOR YOU, YOU OR  
26 SOMEBODY WORKING ON YOUR BEHALF WILL HAVE TO GO FIND THEM.  
27 BUT OTHERWISE, AM I FAIRLY DESCRIBING THE PROCESS FOR  
28 MS. BLISS'S BENEFIT, MR. PISANO?

Original

31

1 MR. PISANO: I BELIEVE SO, YOUR HONOR.

2 THE COURT: ANYBODY DISAGREE WITH MY REVIEW OF THE  
3 PROCEDURE FOR MS. BLISS?

4 OKAY. ANY OTHERS WANT TO BE HEARD THIS  
5 AFTERNOON?

6 MR. PISANO?

7 MR. PISANO: JUST ONE SMALL REQUEST TO THE ORDER FOR  
8 THE DAY IS THAT IF THE CITY IS GOING TO BE DISCLOSING FIRST  
9 AND GIVING THE OTHER MAJOR PLAYERS AT LEAST A PREVIEW, THAT  
10 AT A MINIMUM, THE ORDER PROVIDE THAT THE CITY'S EXPERT OR  
11 EXPERTS NOT BE DEPOSED BEFORE THE MAJOR PLAYERS DISCLOSE  
12 THEIR REPORTS. THAT WOULD TO ME SEEM A LITTLE MUCH.

13 THE COURT: ANYBODY DISAGREE WITH MR. PISANO'S  
14 REASONABLE REQUEST?

15 MR. COSGROVE FOR CASITAS?

16 MR. COSGROVE: NO.

17 THE COURT: MR. MELNICK?

18 MR. MELNICK: NO, YOUR HONOR.

19 THE COURT: MS. JACOBSON?

20 MR. MELNICK: I HAVE NO OBJECTION.

21 THE COURT: MS. JACOBSON?

22 MS. JACOBSON: NO, YOUR HONOR.

23 THE COURT: MR. PATTERSON?

24 MR. PATTERSON: NO OBJECTION, YOUR HONOR. I THINK IT  
25 MAKES SENSE. THAT'S FINE.

26 MS. JACOBSON: ACTUALLY, I DO HAVE A QUESTION.

27 THE COURT: GO AHEAD, MS. JACOBSON.

28 MS. JACOBSON: SO IF THE REQUEST IS THAT VENTURA'S

1 EXPERT NOT BE DEPOSED UNTIL SEPTEMBER 24TH --

2 THE COURT: INCLUDING THE DISCLOSURE OF THE REPORTS  
3 THAT ARE EXPECTED ON SEPTEMBER 24TH.

4 MS. JACOBSON: WELL, MY CONCERN IS IF A PARTY FILES AN  
5 EX PARTE REQUEST FOR ADDITIONAL TIME FOR A REPORT, BUT HAS  
6 DISCLOSED THEIR EXPERT, I DON'T KNOW -- I DON'T THINK IT  
7 WOULD BE IN THE BEST INTEREST OF STREAMLINING THIS CASE TO  
8 FURTHER DELAY DEPOSITIONS.

9 THE COURT: WELL, IT MAY OR MAY NOT. I GUESS YOU ARE  
10 SOMEBODY WHO MAY WANT TO DELAY YOUR EXPERT, BUT IF YOU DO,  
11 YOU MAY DELAY THE DEPO OF THE VENTURA EXPERT. SOUNDS LIKE  
12 YOU HAVE TO DEAL WITH THAT.

13 MS. JACOBSON: NO, AS I UNDERSTAND THE SEPTEMBER 24TH  
14 DEADLINE, IT'S TO DISCLOSE THE EXPERT AND REPORT UNLESS AN  
15 EXTENSION IS REQUESTED FOR THE REPORT.

16 THE COURT: FOR GOOD CAUSE AND THEN I GRANT IT, BUT  
17 THAT MAY HAVE AN IMPACT THEN ON WHEN MR. PISANO'S EXPERT IS  
18 FIRST ELIGIBLE TO BE DEPOSED, AT LEAST IN HIGHBERGER'S VIEW.

19 MS. JACOBSON: WELL, MY CONCERN IS THAT THAT IS GOING  
20 TO GET CIRCLED BACK TO OUR ORIGINAL CONCERNS ABOUT NOT  
21 HAVING ENOUGH TIME TO PREPARE FOR TRIAL IN THIS CASE IF WE  
22 CONTINUE TO DELAY DEPOSITIONS. THAT'S ALL.

23 THE COURT: WE WILL HAVE TO SEE HOW IT PLAYS OUT.  
24 MAYBE IF MR. MELNICK'S EXPERTS AND MR. COSGROVE'S EXPERTS,  
25 YOU KNOW, PUT ENOUGH CARDS ON THE TABLE TO DEMONSTRATE WHAT  
26 THE DEBATING POINTS ARE REGARDING THE CITY OF VENTURA'S  
27 EXPERT, PERHAPS THEN IT IS FAIR TO EXPECT THE VENTURA EXPERT  
28 TO BE DEPOSED, EVEN IF MS. JACOBSON'S EXPERT IS STILL

**Original**

1 SOMEWHERE AS A WORK IN PROGRESS. BUT MAYBE NOT.

2 SO, YOU KNOW, IF YOU ARE GOING TO BE HIRING AN  
3 EXPERT, YOU HAVE CASE TO GET ON WITH IT, MS. JACOBSON.

4 ANYBODY ELSE WANT TO BE HEARD BEFORE WE RECESS?

5 IF NOT, OUR NEXT DATE IS AUGUST 16 TO MY  
6 UNDERSTANDING. HOPEFULLY WE CAN HAVE A FULL SET OF THE  
7 OBJECTIONS TO THE PHYSICAL SOLUTION FOR ME TO REVIEW IN  
8 ADVANCE OF THAT.

9 THE COURT IS IN RECESS. THE CITY OF VENTURA TO  
10 GIVE NOTICE.

11

12 (THE MATTER WAS ADJOURNED AT 3:06 P.M.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES  
DEPARTMENT SSC-10 HON. WILLIAM F. HIGHBERGER, JUDGE

SANTA BARBARA CHANNELKEEPER,  
PLAINTIFF,  
VS.  
STATE WATER RESOURCES CONTROL BOARD,  
ET AL.,  
DEFENDANTS.

CASE NO.  
19STCP01176

AND RELATED CROSS-ACTION.

I, KAREN VILICICH, CSR NO. 7634, OFFICIAL COURT REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES 1 THROUGH 33 COMPRISE A FULL, TRUE AND CORRECT TRANSCRIPT OF THE TESTIMONY AND PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER ON FRIDAY, JULY 23, 2021.

DATED THIS 29TH DAY OF JULY, 2021.



KAREN VILICICH, CSR NO. 7634  
OFFICIAL REPORTER PRO TEMPORE

July 23, 2021

1

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