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12 CITY OF SAN BUENAVENTURA

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES

16 SANTA BARBARA CHANNELKEEPER,
17 a California non-profit corporation,

18 Petitioner,

19 v.

20 STATE WATER RESOURCES
CONTROL BOARD, etc., et al.,

21 Respondents.

22 CITY OF SAN BUENAVENTURA, etc.,

23 Cross-Complainant

24 v.

25 DUNCAN ABBOTT, an individual, et al.

26 Cross-Defendants.
27
28

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Superior Court of California
County of Los Angeles

FEB 19 2021

Sherri R. Carter, Executive Officer/Clerk of Court

Case No. 19STCP01176

Judge: Honorable William F. Highberger

NOTICE OF RULING

Date: February 9, 2021

Time: 1:30 p.m.

Dept: SS10

Action Filed: Sept. 19, 2014

Trial Date: Not Set


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8, 2021. Parties who would like to respond to this brief can do so through their respective Status Conference Reports to be filed by March 10, 2021.

6. For the Status Conference on March 15, 2021, at 1:30 p.m., the Court ordered that City's status report be filed and served by March 8, 2021, and if necessary, unilateral reports filed by other parties be filed and served by March 10, 2021. Prior to the filing of those reports, the City will meet and confer with the other parties about the terms of a potential site visit and a schedule for providing the Court with the proposed physical solution, so those topics can be discussed at the March 15, 2021 Status Conference.
7. The City shall coordinate with Court clerical staff and may begin filing requests for entry of default.
8. Any request to lift the discovery stay or to set any dates related to an evidentiary hearing on a proposed physical solution shall be made by noticed motion at some future date as set by the Court.

Dated: February 19, 2021

BEST BEST & KRIEGER LLP

By: 

SHAWN HAGERTY
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CITY OF SAN BUENAVENTURA

EXHIBIT A



19STCP01176

*Santa Barbara Channelkeeper v. State Water Resources Control Board, etc.
City of San Buenaventura v. Abbott, et al.*

Feb. 9, 2021 Tentatives

State of Pleadings:

To the Court's understandings, there are two operative pleadings presently pending in this case (not counting responsive pleadings). They are:

1. Plaintiff/Petitioner Santa Barbara Channelkeeper's First Amended Complaint For Declaratory Relief And Verified Petition For Writ Of Mandate, filed on Sept. 7 & 10, 2018 while this case was pending in San Francisco Superior Court (pursuant to the grant of a motion for leave to amend on July 25, 2018)(hereafter simply "1st Amended Complaint"), and
2. Respondent And Cross-Complainant City Of San Buenaventura's Third Amended Cross-Complaint, filed January 2, 2020, in this Court's docket (hereafter simply "3rd Amended Cross-Complaint").

1st Amended Complaint by Santa Barbara Channelkeeper (hereafter "SBChannelkeeper") names two respondents/defendants, State Water Resources Control Board ("SWRCB") and City Of Buenaventura (hereafter simply "City of Ventura"). It includes one cause of action against City of Ventura and four causes of action against SWRCB. The particular issue of concern to SBChannelkeeper is the taking of water from Reach 4 of the Ventura River (Casitas Vista Road to Camino Cielo Road) from April through October because of its detrimental effect on southern California steelhead trout and other endangered and threatened species. City of Ventura filed an Answer on Sept. 24, 2018. ***This Court finds no entry in the records of the San Francisco Superior Court or in the records of Los Angeles Superior Court showing that SWRCB has filed a responsive pleading in this action. If it did so, please serve a conformed copy on FSX as soon as possible.*** It is clear that this government party has appeared in this action whether or not a formal pleading response has been filed. As such, it should be possible to get this pleading at issue in the near future, if it is not at issue already. Proceedings have been stayed pending service of 3rd Amended Cross-Complaint.

3rd Amended Cross-Complaint names over 2,100 riparian land-owners along the Ventura River and its tributaries as Cross-Defendants. It includes nine causes of action, each brought against all named Cross-Defendants, and the 6th Cause of Action, by invocation of C.C.P. § 830 et seq., commences a Comprehensive Groundwater Adjudication Action involving the rights of the named Cross-Defendants (i.e. riparian land owners) as well as the rights of an additional unnamed 10,000+ land owners of fee simples in the Groundwater Basin(s) at issue.

SWRCB and California Department of Fish & Wildlife successfully moved to intervene in the Cross-Complaint on December 4, 2019, and neither was required to file a Complaint-in-Intervention.

As of Feb. 2, 2021, the date of the latest report from Cross-Complainant, approximately 319 of the riparian owners are not yet served with the Summons and Cross-Complaint (pursuant to

traditional methods of service required for service of such items), and 115 of over 10,000 unnamed land owners in the Groundwater Basin(s) have not yet been served via the alternative methods authorized by C.C.P. § 836(d)(1)(B) (i.e. registered or certified U.S. Mail, return receipt requested). In cases where no such Return Receipt is obtained, Cross-Complainant is obligated to give notice by posting on the affected property pursuant to C.C.P. § 836(d)(1)(C). Cross-Complainant was separately obligated to give notice to such unnamed parties by publication pursuant to C.C.P. § 836(d)(1)(D), and this Court has additional power to order other methods of notice pursuant to C.C.P. § 836(i). Compliance with these methods of notice to the interested unnamed land owners has been deemed sufficient for *in rem* jurisdiction over the disputed water to attach pursuant to C.C.P § 836(j).

As to the ≈319 named riparian owners, the Cross-Complainant is continuing its skip-tracing research. Before any request to provide substitute notice to any such person or entity by publication (i.e. fictitious notice) is made, the Court will want a current report from the Ventura County Tax Collector specific to each Assessor's Parcel Number at issue showing whether or not property taxes have been timely paid. If they have, the Court will be very reluctant to authorize publication notice. If the taxes are in arrears for 12 months or longer, the Court will be much more willing to authorize publication notice on the theory that the record title owner has lost interest in his, her or its rights to the land. Assuming publication is authorized, the process takes a month or longer to accomplish before the time to respond even starts to run. C.C.P. § 415.50(c).

The Court does not know how many of the ≥2,100 named riparian land owners have been served but not yet entered a timely appearance. The City of Ventura as Cross-Complainant will need to default each of these Cross-Defendants (a process handled by clerical staff of the Court, not the judge or his courtroom staff). ***The defaults need to be entered (not just lodged or, worse yet, lodged and rejected for any of the many technical reasons why a default request may be incomplete or inaccurate) before this case proceeds into discovery on the merits and before any trial or other evidentiary hearing is set.*** If there are going to be 50, 100 or more such Requests For Entry Of Default, limitations on available court clerical resources will limit how fast the full inventory of such requests can be processed, and experience teaches that there are often technical but fixable defects which require resubmission once the first request has been evaluated and rejected. Whether or not the operative pleading (i.e. 3rd Amended Cross-Complaint) can support entry of an adverse Default Judgment against some or all of these parties (i.e. whether it provides sufficient due process notice for what a given cross-defendant may lose by not appearing to protect his, her or its legal rights) is a matter to be determined much later when the case is otherwise near completion.

Cross-Complainant says it hopes to accomplish the posting process for the remaining unnamed land owners by end of February, and this seems feasible given the small number of properties involved, i.e. 115. Since these parties are not named and *in rem* jurisdiction provides the basis for a binding legal adjudication, Cross-Complainant has no obligation to default land owners who have been properly served via mail or posting, and the Court does not even know the name of all of these affected unnamed land owners.

All of this suggests that the two pleadings will not realistically be at issue any time sooner than July 1, 2021, if then. This assumes that ALL requests for publication are submitted to the Court by March 1, 2021 and reviewed and approved by the judge by March 15, 2021, that publication occurs during the period April 1 to 29, 2021 and that such defendants have until May 29 to respond, and that Cross-Complainant then lodges technically perfect Requests For Default as to each such Cross-Defendant by June 15, 2021 and that Court staff is thereafter able to approve each of these by July 1, 2021. The posting process should be readily accomplished by then, assuming the City of Ventura gets on with all the posting by February 28, 2021 as promised in the latest report.

Request Of City Of Ventura To Lift Stay And Set Discovery Schedule And Evidentiary Hearing On Proposed Physical Solution In November 2021

Cross-Complainant and certain of the larger users of water from the Ventura River and the groundwater basin(s) associated therewith (aka “Consumptive Users”) propose that the Court set a 19-day period for further negotiation of a draft Physical Solution, aka Proposed Stipulated Judgement (which to date has intentionally NOT been shared with this Court with the Court’s consent so far), to then lift the stay on discovery on March 1, 2021 and to then set an adjudication pursuant to C.C.P. § 850(b) of the proposed Physical Solution this November. This proposal is supported by two water districts, a mutual water company and one ranch to date though the Court has also received a dozen or more Stipulations For Entry Of Stipulated Judgment from other interested parties.

This request is opposed by one of the largest users of the disputed water (Casitas Municipal Water District, hereafter “Casitas MWD”), the three interested state agencies (SWRCB, Fish & Wildlife and Cross-Defendant California Department of Parks and Recreation), the original plaintiff/petitioner in this case, public interest litigant SBChannelkeeper, and others. Casitas MWD suggests more time should be allowed for client-to-client negotiation regarding the draft Physical Solution. The state agencies and SBChannelkeeper alert the Court that SWRCB and Fish & Wildlife have been analyzing the water flow requirements for the steelhead trout fishery of concern, and the results of this effort will finally be available to the public on Feb. 26, 2021 in draft form as to the lower Ventura River with the “remaining flow investigation work ... scheduled to be finished this year.” Further, the same two agencies have been studying “the interconnectedness of groundwater and surface water in this watershed” and the fruits of this effort are now predicted to be available “next year” with month unstated.

Other interested land-owners¹ object on the grounds that the City of Ventura’s request appears to assume that all of the other claims and defenses related to the 1st Amended Complaint and 3rd Amended Cross-Complaint are swept into the Comprehensive Adjudication (i.e. 6th Cause of Action in 3rd Amended Cross-Complaint) with no due process right for named Cross-Defendants and voluntarily appearing unnamed land owners (i.e. Cross-Defendants by voluntary appearance in the in rem action) to dispute their liability or right not to suffer a diminution of existing water rights. The state agencies join in this objection and also note that City of Ventura hopes to adjudicate its desired Physical Solution, aka Proposed Stipulated Judgement, without attempting

¹ This includes the many institutional clients of Musick Peeler, such as Ojai Valley Inn, The Thacher School and Ojai Valley School.

to satisfy the express statutory prerequisite for any such proceeding as required by C.C.P. § 850(b):

(b) If a party or group of parties submits a proposed stipulated judgment that is **supported by more than 50 percent of all parties who are groundwater extractors in the basin or use the basin for groundwater storage and is supported by groundwater extractors responsible for at least 75 percent of the groundwater extracted in the basin during the five calendar years** before the filing of the complaint, the court may adopt the proposed stipulated judgment, as applied to the stipulating parties, if the proposed stipulated judgment meets the criteria described in subdivision (a). A party objecting to a proposed stipulated judgment shall demonstrate, by a preponderance of evidence, that the proposed stipulated judgment does not satisfy one or more criteria described in subdivision (a) or that it substantially violates the water rights of the objecting party. If the objecting party is unable to make this showing, the court may impose the proposed stipulated judgment on the objecting party. (bold emphasis added)

This objection appears to have substantial merit, and, in turn, *it greatly concerns the Court that the City of Ventura and other parties are suggesting that the timely provision of the Initial Disclosures otherwise required of each appearing party by C.C.P. § 842 be waived indefinitely.* It appears to the Court that only by the receipt of timely Initial Disclosures from each interested land owner (i.e. interested enough to voluntarily appear even if not expressly named) will we be able to get the denominator required to answer the first test in C.C.P. § 850(b), i.e. how many “groundwater extractors” presently take in the relevant basin(s) such that we can determine if X number of supporters of a Proposed Stipulated Judgment is 0.50 of ALL groundwater extractors. Likewise, until this data is supplied (e.g. the “quantity of any groundwater extracted from the basin by the party and the method of measurement used ... for each of the previous 10 years proceeding the filing of the complaint”), we will have no idea what is the denominator acre feet of water extracted for the second test under C.C.P. § 850(b), which must also be met if a Proposed Stipulated Judgment is adjudicated under the unique provisions of C.C.P. § 850(b), which puts the onus and burden of proof on the Opponents of a Proposed Stipulated Judgment, rather than on its Proponents.

For obvious due process reasons, City of Ventura cannot turn the tables on the hold-outs and make them satisfy the burden of proof unless it can clearly show that the two tests under § 850(b) are met. Tentatively, the Court is of the view that no hearing on the 6th Cause of Action in the 3rd Amended Cross-Complaint should be set until this showing is made. If the showing cannot be made (or if the City of Ventura is willing to waive reliance on the provisions of § 850(b)), then presumably a hearing on the comprehensive adjudication would be set under C.C.P. § 850(a) where the City of Ventura and its consumptive user allies would bear the burden of proof. *It also appears true that the named Cross-Defendants are entitled to a trial on the other eight causes of action in the 3rd Amended Cross-Complaint before any judgement is entered unless City of Ventura voluntarily dismisses all such claims.*

Another similar objection to the setting of any Comprehensive Groundwater Adjudication hearing is made by both the state agencies and certain land owners who dispute any connectedness of their groundwater basin to Reach 4 of the Ventura River. These include Dr.

Robin Bernhoft, the Frankl Living Trust, and Loa Bliss and David Gilbert. As noted by the state agencies, the provisions in the Comprehensive Groundwater Adjudication statute do not automatically apply to surface waters in the same area. Only if a necessary factual showing is made under C.C.P. § 833(c) will joinder of riparian owners be authorized:

(c) If the court finds that including an interconnected surface water body or subterranean stream flowing through known and definite channels is necessary for the fair and effective determination of the groundwater rights in a basin, the court may require the joinder of persons who claim rights to divert and use water from that surface water body or subterranean stream in a comprehensive adjudication conducted pursuant to this chapter. (bold emphasis added)

To this Court's understanding no such factual showing has been made in the history of this case, by this judge or any prior judge. If there was such a finding, please point it out to me. This case started as a riparian dispute only about the sufficiency of water flow for steelhead trout and other species and mutated later by the theories advanced by Defendant/Cross-Complainant City of Ventura into a hybrid riparian/groundwater suit. That does not mean that each and all of the claims of SBChannelkeeper are subsumed into its adversary's 6th Cause of Action in the 3rd Amended Cross-Complaint, and it likewise does not mean that the rights of parties named as Cross-Defendants in the 1st through 5th and 7th through 9th causes of action in the 3rd Amended Cross-Complaint are subsumed into a trial of the issues tendered by the 6th Cause of Action therein.

Finally, it is noted by several of the parties presently opposed to City of Ventura's proposed schedule that a question as serious as the lifting of the present stay and the setting of this matter for a trial on a single cause of action under C.C.P. § 850(b) presents a serious question which should only be resolved on motion with due notice and a full opportunity to oppose. The Court agrees with this point.

Initial Disclosures:

As noted above, this Court believes that notwithstanding any other stay on discovery in this case, the information to be provided by the Initial Disclosures provided by C.C.P. § 842 is essential to the orderly management of this case, including but not limited to the question of whether or not C.C.P. § 850(b) can be invoked by the proponents of a Proposed Stipulated Judgment. If there is any stay in place as to this obligation, it should and will be canceled forthwith. This Court will NOT agree to a further delay in the provision of this essential information.

Site Visit:

Notwithstanding that it would be premature to lift the stay on discovery generally on March 1, 2021, the Court is agreeable to the concept of an educational trip to key sections of the Ventura River and its tributaries at the parties' earliest convenience.

Provision Of Current Draft Physical Solution To Court?:

Up to now the Court has accepted the loudest advocates assertion that it would be confusing for the Court to see a possible settlement document while still in draft and subject to material change. The Court is, however, finding it increasingly difficult to adequately the process

objections and other comments of interested parties² who ARE informed of the Draft Physical Solution and wish to make reference to it. How much longer am I supposed to wait?

Speeding Up SWRCB And Fish & Wildlife Studies:

To a point, the Court agrees with SBChannelkeeper and the state agencies that the results of these ongoing studies are highly relevant to a reasonable settlement of this important case and to the adjudication of the respective rights of the many interested parties absent global settlement. That being noted, SWRCB first appeared in this action on October 16, 2014 with the filing of a Stipulation Re: Briefing Schedule. Fish & Wildlife moved to intervene in the Cross-Complaint on or about Nov. 4, 2019, and the pendency of this suit and the concerns about the sufficiency of water flows in the Ventura River were presumably matters of public knowledge long before that date. For this reason and notwithstanding the understandable burdens created by the covid pandemic on the orderly workings of government researchers, the Court is frankly quite disappointed with the slow pace of these studies.

Do other parties, such as SBChannelkeeper, City of Ventura or Casitas MWD have their own analyses of (a) minimum flows in Reach 4 needed for a healthy fishery and/or (b) the connectedness of that surface watercourse with groundwater basin(s) which underly the course of the Ventura River and its tributaries? One would assume that counsel for City of Ventura had some good faith factual basis for making the assertions in the 3rd Amended Cross-Complaint that the entirety of the groundwater basins referenced in such pleading at ¶ 103 and Exhibit A thereto had a connectedness to the water flows in Reach 4 before filing such pleading so as to satisfy their ethical obligations under C.C.P. § 128.5. If so, have these studies been provided to other interested parties in this case to date? If not, why not? Attorney-work product? Other?

[Proposed] Stipulation And Order For Entry Of Physical Solution And Judgement:

Mindful of the provisions of C.C.P. § 850(b), which requires 50 percent of groundwater extractors to endorse a Proposed Stipulated Judgment, the Court is aware of City of Ventura's natural desire to have as many of these Stipulations entered as possible (assuming there is independent proof that each such signatory has a working well such that he, she or it is, in fact, a groundwater extractor). In cases where the signing party is already named in the 3rd Amended Cross-Complaint, use the exact name by which such person has been named in the Stipulation such that court staff will see an exact match to the party name already in our records.³ If, as was the case for Eric Jenssen and Kathleen Janetatos Smith, you have an "erroneously named as X" situation, make this evident on the face of the document (as did NOT happen for those two submissions) with language such as "erroneously sued as Gridley Road Water Group," or, better yet, submit a Roe Amendment or name correction on LASC Form LACIV 105 Amendment To

² For example, the objection of the Krankl Living Trust to having "to pay a basin replenishment fee to fund the correction of the direct extraction of water from the Ventura river by those actors when the Krankl well is not in the Ventura river," etc. is essentially incomprehensible (through no fault of theirs) without reference to the draft Physical Solution.

³ Getting the name to exactly match the party name in our records is very important for first appearances (which includes the filing of such Stipulations in lieu of Answer), requests for default and requests for dismissal. This includes references to someone named as Trustee of a specifically named trust dated X date. Missing middle names, small misspellings, incomplete description of a party appearing as a Trustee of a Trust and not in an individual capacity, and the like should lead to a rejection when staff has the time to carefully check the paperwork before proceeding to accept it.

Complaint (Fictitious/Incorrect Name). You use the same form to add a Doe/Roe party (check “Fictitious Name” box and no judicial approval required) OR to fix a naming/spelling error in a party name (check “Incorrect Name” box, and I will have to counter-sign before it is filed).

Filing Fees:

The Court agrees that no further Complex fees should be charged to any parties newly appearing in this action. The Court will take this up with Court management (at Mosk where such papers are submitted). Parties who have paid such fees recently should make a request for refund in writing on the correct form.

Next Status Conference:

Given that City of Ventura and certain consumptive users now believe that this case can go from stuck in the mud to warp speed, this Court is inclined to set this case for monthly Status Conferences, perhaps on a regular date, e.g. third Wednesday at 1:30 p.m.

EXHIBIT B



19STCP01176 *Santa Barbara Channelkeeper v. SWRCB*

Feb. 9, 2021 Agenda for Status Conference

1. 3rd Amended Cross-Complaint Party-Naming Clean Up:

For a situation like the several persons who comprise the Gridley Road Water Group, please prepare an Application For Name Correction And Order Thereon on pleading paper similar to the relevant text on LASC Form LACIV 105 but with space to state with clarity that each of these four (?) individuals was previously named in the singular as Cross-Defendant Gridley Road Water Group, and you now wish to have each of these four (?) names listed as Cross-Defendants in lieu thereof, providing the exact way you want each name shown. This will be for judge approval. There should be no filing fee, and this can be purely ex parte without service on others.

Do NOT try to use LASC Form LACIV 105 to swap in two or more new parties for one previously named party. That form is suitable for use when there is a spelling variation or some difference like “LLC” instead of “Co.” or “Corp.” or a party named by its DBA which has a different legal name.

You should not handle title transfers by sale or inheritance as a naming correction. Dismiss the prior owner and name the new owner(s) as Roe cross-defendant(s).

When you use LACIV 105 or a custom-drafted Stipulation And Order as suggested for Gridley Road Water Group, the filing of such Application And Order Thereon automatically resolves the status of wrongly named party, i.e. it is gone for good.

If you are adding an ADDITIONAL party to the case not erroneously named to date, then use LASC Form LACIV 105 to add them as a Roe defendant (some Roe # between 1 and 1000, given the text of the Summons and the 3rd Amended Cross-Complaint).

2. Treatment Of Walk-On Cross-Defendants Going Forward:

The voluntary, “walk-on” cross-defendants were NOT named in the 3rd Amended Cross-Complaint and their voluntary appearance does not change this historic fact. For this reason, it is very confusing to include any language which asserts that they are “named” cross-defendants. Use some alternative language that they were “noticed” and “voluntarily appeared” so we understand where, if at all, to look for these people in our records.

3. Burden On Judge And Court Staff From Unusual Sequence Of Voluminous List Of Cross-Defendants In 3rd Amended Cross-Complaint.

Because City of (Buena)Ventura used a very odd alphabetizing convention for the 3rd Amended Cross-Complaint, I find it very hard (and I assume court staff likewise finds it very hard) to locate parties in our records to match up lodged Stipulations and any first-appearance filings with our party entries. You appear to have sorted the parties listed in the 2nd Amended Cross-

Complaint and earlier filings (e.g. Stephanie Gustafson) by the surname (when a natural person), but for the hundreds and hundreds of Riparian and Riparian/Overlying land owners added to the 3rd Amended Cross-Complaint for the first time, you did a weird alpha sort by the first given name in a property title (e.g. Tyler Labine and Carrie Ruscheinsky are sorted right after Tyler and Maria Barrell, and Lisa Smith and Nathaniel Cox follow Lisa Lopez and Brian Merrill). Worse yet they are presented as two separate alpha sorts since you group the Riparian new names separately from the Riparian/Overlying list of weirdly sorted names. This makes it very time intensive to try to locate a party name in our records when determining as a Judge whether a given Stipulation For Physical Solution should be approved.

Note also the Excel new party lists which we got from City of Ventura counsel a year ago did NOT include the previously named cross-defendants and it appears that some or all of these party names did not carry over as cross-defendants for the 3rd Amended Cross-Complaint. To my understanding court management and Best, Best & Krieger are aware of this and we will hopefully get a list of the missing names (via a new Excel spreadsheet) shortly. Note: this is entirely separate and apart from our need for periodic updates from City of Ventura as to the identity of “walk-on” noticed landowners who voluntarily appear in this action.

4. Need For Ventura City Attorney To Work Closely With Court Staff To See That Party Records Are Correct.

As noted in the Tentative, it is in this litigant’s interest to be sure that our records are correct. The volume of paper and the uniqueness of having new persons self-identify as additional parties is such that close review of records made to date is needed. Many obviously are in error, e.g. the 11 Cross-Defendants tied as responsive parties to Santa Barbara Channelkeeper’s 1st Amended Petition filed 2/19/2019 (date of inbound transfer from SF Superior, hence filing date error) as well as the one Real Party in Interest erroneously tied to the same Amended Petition.

As noted previously, the identity of a party to a Stipulation For Physical Soution needs to tie exactly to how that party is shown in our records, including spelling, middle name and any reference to a Trustee’s relation to a Trust.

5. Primacy Of Fixing Party Records Before Defaults Are Sought; Need For Conformed Copy Of Filed POS Of Summons And Complaint With Each Request For Default.

If, as predicted, we should expect 1,000+ Requests For Default (remembering that each application is specific to one named cross-defendant only), it is essential that the court records against which these Requests For Default will be tested need to be complete and accurate. Please do NOT submit any Requests For Default until the docket clean-up has proceeded to this Judge’s satisfaction. Note also, that you should be able to see how each named cross-defendant’s name appears in our record by careful review of the free, public lacourt.org website. Remember also that you MUST include a conformed copy of any previously filed Proof Of Service Of Summons And Complaint with each Request For Default (including conformed copies of all such proofs as necessary to show proper substituted service, if this method employed) so that Court staff does not have to invest the time in finding the “needle in the

haystack,” e.g. one of hundreds of such proofs filed on March 2, 2020 or on some other date. *If the relevant POS of Summons And Complaint was not previously filed, then you should attach it to the Request For Default to which it relates.*

6. No Use Of E-Filing Until Express Approval By Judge Highberger

While the Court hopes to move to e-filing for Complex in May 2021, the need to match up Requests For Default to the needed substantiation that a valid POS of personal service or of valid substituted service exists and is part of the court record is such that you must submit all of this in hard copy pending further order of this Court.

7. Mr. Blatz’s Stipulations:

I haven’t seen an example of this document yet, but I have no quarrel with the quoted language in your posting that an unnamed party noticed pursuant to C.C.P. §836 is “incorrectly identified as a Cross-Defendant.” Such a party was certainly not “named” (aka “identified”) in the 3rd Amended Cross-Complaint by name. Note, however we have no practical way to add these names to our party records (as we consider necessary to make a proper record of these parties’ submission of Answers and other documents to our public files) than by use of the inartful term “cross-defendant.” “Defendant” would be even less accurate and Real Party In Interest seems no better.

8. Other Matters

The Court will be prepared to talk about other issues of concern to the parties once it has confidence that the basic steps needed to have a correct factual record on which this case is to proceed will be addressed by City of Ventura’s counsel. Until then, it is premature to address such matters.