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

SANTA BARBARA CHANNELKEEPER, A)
CALIFORNIA NON-PROFIT CORPORATION,)
)
) PLAINTIFF,)
)
) VS.) CASE NO. 19STCP01176
)
) STATE WATER RESOURCES CONTROL BOARD,)
) ETC., ET AL.,)
)
) DEFENDANTS.)
)
)
) AND RELATED CROSS-ACTION.)
)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
MONDAY, JUNE 21, 2021

IN-PERSON APPEARANCES OF COUNSEL:

FOR CITY OF SAN BUENAVENTURA: BEST BEST & KRIEGER LLP
BY: SHAWN D. HAGERTY, ESQUIRE
CHRISTOPHER M. PISANO, ESQUIRE
300 SOUTH GRAND AVENUE, 25TH FLOOR
LOS ANGELES, CALIFORNIA 90071

FOR STATE WATER RESOURCES CONTROL BOARD: STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
BY: MARC N. MELNICK, DEP. ATTY GENERAL
1515 CLAY STREET
OAKLAND, CALIFORNIA 94612

CASITAS MUNICIPAL WATER DISTRICT: RUTAN & TUCKER, LLP
BY: DAVID S. COSGROVE, ESQUIRE
611 ANTON BOULEVARD, SUITE 1400
COSTA MESA, CALIFORNIA 92626

(APPEARANCES CONTINUE ON THE NEXT PAGE)

REPORTED BY: TIMOTHY J. MCCOY, CSR NO. 4745
OFFICIAL REPORTER PRO TEMPORE

<p>1 APPEARANCES OF COUNSEL (CONTINUED): 2 FOR WOOD-CLEYSSENS BROWNSTEIN HYATT FARBER SCHRECK 3 FOUNDATION: BY: BRADLEY J. HERREMA, ESQUIRE 4 2049 CENTURY PARK EAST, STE. 3550 5 LOS ANGELES, CALIFORNIA 90067 6 REMOTE L.A. COURTCONNECT APPEARANCES: 7 CA. DEPARTMENT OF OFFICE OF THE ATTORNEY GENERAL 8 PARKS AND RECREATION: BY: SOPHIE A. WENZLAU, 9 DEPUTY ATTORNEY GENERAL 10 CA. DEPARTMENT OF OFFICE OF THE ATTORNEY GENERAL 11 FISH & WILDLIFE: BY: ERIC M. KATZ, 12 DEPUTY ATTORNEY GENERAL 13 FOR LOA E. BLISS BY: LOA E. BLISS, 14 2006 REVOCABLE TRUST: IN PROPRIA PERSONA 15 FOR OAK HAVEN, LLC: LAW OFFICE OF LINDLEY P. FRALEY 16 BY: LINDLEY P. FRALEY, ESQUIRE 17 FOR AERA ENERGY, LLC: MANATT, PHELPS & PHILLIPS LLP 18 BY: SIGRID R. WAGGENER, ESQUIRE 19 PETER R. DUCHESNEAU, ESQUIRE 20 FOR AGR BREEDING INC.: ALSTON & BIRD LLP 21 BY: GINA ANGIOLILLO, ATTY AT LAW 22 FOR RANCHO MATILJA FERGUSON CASE ORR PATERSON LLP 23 MUTUAL WATER COMPANY: BY: JESSICA WAN, ATTORNEY AT LAW 24 FOR ERICA J. ABRAMS: RYAN BLATZ LAW 25 BY: RYAN W. BLATZ, ESQUIRE 26 FOR THE THACHER SCHOOL: BY: GREGORY PATTERSON, ESQUIRE 27 FOR HOUSING AUTHORITY BY: DAVID FARKAS, ESQUIRE 28 OF THE CITY OF 29 SAN BUENAVENTURA: 30 FOR SANTA BARBARA BROWNSTEIN HYATT FARBER SCHRECK 31 CHANNELKEEPER: BY: DANIEL COOPER, ESQUIRE 32 BENJAMIN PITTERLE, ESQUIRE 33 SCOTT SLATER, ESQUIRE 34 FOR COUNTY OF VENTURA: VENTURA COUNTY COUNSEL'S OFFICE 35 BY: JASON T. CANGER, ESQUIRE</p>	<p>1 INDEX 2 3 MONDAY, JUNE 21, 2021 4 5 WITNESSES 6 (NONE) 7 8 EXHIBITS 9 (NONE) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p>
<p>1 REMOTE L.A. COURTCONNECT APPEARANCES (CONTINUED): 2 FOR VENTURA LAND TRUST: MORRISON & FOERSTER 3 BY: PATRICIA I-JUN TSAO, ESQ. 4 FOR DANNY EVERETT: LAW OFFICES OF DAVID R. GREIFINGER 5 BY: DAVID R. GREIFINGER, ESQUIRE 6 VENTURA RIVER COUNTY HERUM CRABTREE SUNTAG 7 WATER DISTRICT: BY: JEANNE M. ZOLEZZI, ESQUIRE 8 FOR CITY OF OJAI: BY: HOLLY JACOBSON, ATTY AT LAW 9 FOR ANDREW WHITMAN: BY: ANDREW K. WHITMAN, ESQUIRE 10 FOR ROBIN BERNHOFT: BY: ANTHONY L. FRANCOIS, ESQUIRE 11 FOR BALDWIN RANCH, LLC: BY: BRIAN E. MOSKAL, ESQUIRE 12 FOR CLAUDE BAGGERLY: BY: CLAUDE BAGGERLY, 13 IN PROPRIA PERSONA 14 FOR JEFFREY S. BACON: BY: DAVID A. OSIAS, ESQUIRE 15 FOR ROBERT MARTIN: BY: DAVID A. OSSENTJUK, ESQUIRE 16 FOR STEPHANIE GIBSON: BY: KELTON LEE GIBSON, ESQUIRE 17 FOR LINDA MACDOUGALL: BY: LINDA MACDOUGALL, ESQUIRE 18 FOR VENTURA COUNTY BY: NATHAN METCALF, ESQUIRE 19 WATERSHED PROTECTION 20 DISTRICT: 21 FOR ANDREW WHITMAN: BY: ANDREW K. WHITMAN 22 FOR CITY OF SAN BEST BEST & KRIEGER LLP 23 BUENAVENTURA: BY: PATRICK SKAHAN, ESQUIRE 24 25 26 27 28</p>	<p>1 2 CASE NUMBER: 19STCP01176 3 CASE NAME: SANTA BARBARA CHANNELKEEPER 4 VS. STATE WATER RESOURCES 5 CONTROL BOARD, ET AL. 6 LOS ANGELES, CA MONDAY, JUNE 21 2021 7 DEPARTMENT 10 HON. WILLIAM F. HIGHBERGER, JUDGE 8 TIME: 1:55 P.M. 9 REPORTER: TIMOTHY J. MCCOY, CSR NO. 4745 10 APPEARANCES: (AS HERETOFORE NOTED) 11 *** 12 13 (THE PROCEEDINGS COMMENCED IN OPEN COURT, WITH 14 VARIOUS PARTIES APPEARING REMOTELY, AS FOLLOWS:) 15 16 17 THE COURT: OKAY. WE'RE ON THE RECORD IN 19STCP01176, 18 SANTA BARBARA CHANNELKEEPERS. 19 WE HAVE MANY LAWYERS APPEARING. I ASSUME THE COURT 20 REPORTER'S GOT A LINEUP OF THE LAWYERS IN THE COURTROOM. 21 THE REPORTER: YES, YOUR HONOR. 22 THE COURT: IT WOULD HELP ME IF YOU USED YOUR NAME THE 23 FIRST TIME YOU SPEAK. AND IF YOU'RE ON THE PHONE, OBVIOUSLY 24 ALL THAT MUCH MORE IMPORTANT THAT YOU GIVE YOUR NAME. 25 I SEE THAT MR. COOPER GOT PROMOTED TO BEING COUNSEL 26 FOR PETITIONER AS WELL AS CROSS-DEFENDANT. I'M TRYING 27 TO SEE IF I'VE GOT THE FULL-BLOWN DOCUMENT WITH ALL THE 28 ATTACHMENTS READY FOR SIGNATURE.</p>

2

1 IF YOU HAVE ONE TO HAND UP YOU CAN APPROACH.
 2 MR. PISANO: I HAVE ONE, YOUR HONOR.
 3 AND YOUR HONOR, ALL WE DID WAS --
 4 THE COURT: NAME?
 5 MR. PISANO: CHRISTOPHER PISANO, BEST BEST & KRIEGER.
 6 ALL WE DID WAS, IN MR. COOPER'S SIGNATURE BLOCK,
 7 CORRECTLY IDENTIFIED MR. COOPER AND CHANNELKEEPER AS
 8 PLAINTIFF/PETITIONER.
 9 THE COURT: FINE.
 10 ANYONE WANT TO OBJECT TO MY SIGNING THE STIPULATION
 11 FOR DISMISSAL AS BETWEEN PETITIONER/PLAINTIFF AND CITY OF
 12 VENTURA?
 13 OFF THE RECORD.
 14
 15 (DISCUSSION HELD OFF THE RECORD)
 16
 17 THE COURT: BACK ON THE RECORD.
 18 SO THIS DOCUMENT'S BEEN SIGNED AND WE HAVE
 19 A COUNTERPART TO CONFORM AND GIVE BACK TO MR. PISANO.
 20 LET'S TURN NOW TO SOME THINGS THAT I THINK WILL
 21 BE FAIRLY MINISTERIAL.
 22 AS TO YOUR ORDER TO SHOW CAUSE AS TO THE 92 PEOPLE
 23 IN THE LOCKED SITUATIONS, HAVE YOU RECEIVED ANY OBJECTIONS
 24 THAT DID NOT COME TO MY ATTENTION, MR. PISANO?
 25 MR. PISANO: NO, YOUR HONOR.
 26 THE COURT: AND DO YOU HAVE A FORM OF ORDER YOU'D LIKE
 27 ME TO SIGN AT THIS TIME?
 28 MR. PISANO: I DO, YOUR HONOR.

3

1 THE COURT: WHY DON'T YOU HAND IT UP.
 2 MR. PISANO: AND WE RECEIVED AN ADDITIONAL N.A.K. THIS
 3 MORNING, SO WE'RE DOWN TO 71.
 4 THE COURT: DID YOU CROSS OFF THE --
 5 MR. PISANO: I DID, YOUR HONOR.
 6 THE COURT: SO WE'RE DOWN TO 71, NOT 92?
 7 MR. PISANO: WE'RE DOWN TO 71.
 8 THE COURT: SO MUCH THE BETTER.
 9 MR. PISANO: THE KULBERT FAMILY PARTNERSHIP WROTE
 10 273 THAT WE RECEIVED THIS MORNING.
 11 THE COURT: BUT YOU'VE ANNOTATED IT APPROPRIATELY.
 12 MR. PISANO: IT IS ANNOTATED IN THE EXHIBIT A TO THE
 13 PROPOSED ORDER.
 14 THE COURT: I'LL LEAVE TO IT YOUR GOOD OFFICES TO GET
 15 ON WITH CAUSING PUBLICATION TO HAPPEN AND THEN WAITING THE
 16 APPROPRIATE TIME AND THEN BRINGING IN YOUR DEFAULT PACKETS
 17 IN DUE COURSE.
 18 MR. PISANO: YES, YOUR HONOR.
 19 THE COURT: THEN TURNING TO YOUR ORDER TO SHOW CAUSE
 20 ABOUT THE SEVEN CORPORATIONS, AM I CORRECT THAT AT LEAST
 21 AT THIS EARLY POINT THERE'S BEEN NO OBJECTION?
 22 MR. PISANO: NO OBJECTION RECEIVED, YOUR HONOR.
 23 THE COURT: AND I THOUGHT I'D SEEN CASITAS MUTUAL WATER
 24 COMPANY BEFORE THE COURT.
 25 DO I HAVE ANYBODY APPEARING VIA TELEPHONE OR
 26 OTHERWISE WHO BELIEVES THEY REPRESENT CASITAS MUTUAL WATER
 27 COMPANY?
 28 APPARENTLY NOT.

4

1 ARE THEY A CONSUMPTIVE USER? OR A PIPSQUEAK?
 2 MR. PISANO: I DO NOT KNOW, YOUR HONOR.
 3 THE COURT: OKAY. WELL, THEN UNDER THOSE CIRCUMSTANCES,
 4 IS THERE ANYBODY WHO WISHES TO BE HEARD TO OPPOSE THE
 5 ISSUANCE OF AN ORDER AUTHORIZING SERVICE ON THE SECRETARY
 6 OF STATE?
 7 HEARING NO OBJECTION, I'LL GRANT THAT. CAN YOU
 8 HAND UP YOUR ORDER, SIR?
 9 MR. PISANO, DO YOU HAVE PEACE OF MIND THAT THIS
 10 ITEM WHICH I SAW ON FILE & SERVEXPRESS HAS ALSO BEEN FILED
 11 WITH THE CLERK, OR ARE WE PERHAPS AHEAD OF OURSELVES?
 12 MR. PISANO: I'M SORRY, YOUR HONOR. WHICH?
 13 THE COURT: THIS ORDER AS TO THE SEVEN CORPORATIONS,
 14 ARE YOU CONFIDENT THAT YOUR EX-PARTE APPLICATION HAS
 15 ACTUALLY BEEN FILED ON THE CLERK AND NOT MERELY SERVED
 16 ON FSX?
 17 MR. PISANO: YES, YOUR HONOR.
 18 THE COURT: OKAY. FINALLY TURNING TO YOUR OTHER NEW
 19 EX PARTE SEEKING MERELY AN ORDER TO SHOW CAUSE RETURNABLE
 20 NEXT WEEK AS TO 50 PEOPLE EVADING SERVICE, 23 PEOPLE BEHIND
 21 LOCKED GATES, NOT TO BE CONFUSED WITH THE OTHER 92 PEOPLE
 22 BEHIND LOCKED GATES, AND SIX CROSS-DEFENDANTS WHO ARE
 23 DECEASED, HAVE YOU BEEN INFORMED OF ANY OPPOSITION TO THAT
 24 TO THIS POINT, MR. PISANO?
 25 MR. PISANO: NO, YOUR HONOR.
 26 THE COURT: ANYBODY ELSE WISH TO BE HEARD TO OPPOSE THE
 27 ISSUANCE OF THE ORDER TO SHOW CAUSE? THIS IS NOT THE ACTUAL
 28 RULING AUTHORIZING PUBLICATION, IT'S SETTING IT UP FOR A

5

1 WEEK FROM WEDNESDAY WHEN I MAY WELL GRANT THE RELIEF AT THAT
 2 TIME.
 3 HEARING NO OBJECTION, I'M PREPARED TO GRANT YOUR
 4 EX PARTE AND SIGN THE ORDER.
 5 CAN YOU HAND IT UP, SIR?
 6 MR. PISANO: YES, YOUR HONOR.
 7 YOUR HONOR, ONE DATE THAT I LEFT BLANK IS THE
 8 DATE BY WHICH THE COURT WOULD LIKE ALL SERVICE PACKETS
 9 SENT OUT.
 10 I CHECKED WITH MY PARALEGAL AND SUPPORT STAFF AND
 11 THEY FEEL VERY COMFORTABLE THAT EVERYTHING CAN GO OUT BY
 12 WEDNESDAY, BUT I DIDN'T WANT TO GET AHEAD OF THE COURT.
 13 THE COURT: THAT'S FINE BY ME.
 14 ANY COMMENTS ABOUT THE DECEASED RELATIVE TO MY
 15 FOOTNOTE?
 16 MR. PISANO: YOUR HONOR, I PUT A CALL INTO AN ATTORNEY
 17 IN OUR PROBATE DEPARTMENT. I'M GOING TO RESEARCH THAT AND
 18 I WILL HAVE AN ANSWER BY THE 30TH AND WE'LL FIGURE OUT IF
 19 WE'RE GOING TO HAVE ANY ISSUES THERE.
 20 THE COURT: I MEAN, YOU'RE BEING THOROUGH IN A SENSE
 21 BECAUSE YOU NAMED THEM AND SO TRYING TO GET THEM IN THE
 22 CORRAL FEELS GOOD, BUT THE TRUTH OF THE MATTER IS YOU NEED
 23 A LEGAL ORDER IN THE FORM OF A JUDGMENT BINDING SOMEBODY
 24 WHO HAS NOT YET BEEN NAMED AND BROUGHT BEFORE THE COURT.
 25 DOING WHAT FEELS GOOD TO GET YOUR ORIGINALLY-NAMED
 26 CROSS-DEFENDANTS BEFORE THE COURT IS PROBABLY ESSENTIALLY
 27 POINTLESS.
 28 MR. PISANO: I UNDERSTAND THE ISSUE THAT THE COURT

6	<p>1 BROUGHT TO OUR ATTENTION. THANK YOU.</p> <p>2 THE COURT: OKAY. A DIFFERENT QUESTION. BEAR WITH ME.</p> <p>3 CLAUDE BAGGERLY, I BELIEVE YOU'RE APPEARING VIA</p> <p>4 LACOURTCONNECT? WOULD YOU SPEAK UP, PLEASE, MR. BAGGERLY,</p> <p>5 IF YOU'RE WITH US?</p> <p>6 MR. BAGGERLY: YES, YOUR HONOR, I'M HERE.</p> <p>7 THE COURT: DID YOU SEE THE COURT'S TENTATIVE SERVED ON</p> <p>8 FILE & SERVEXPRESS EARLIER TODAY?</p> <p>9 MR. BAGGERLY: I DID, YOUR HONOR. IT WAS A VERY CLEAR</p> <p>10 MESSAGE ABOUT MISTAKES THAT I'VE MADE ATTEMPTING TO BE A</p> <p>11 PART OF THIS CASE.</p> <p>12 I REALIZE I'M OBLIGATED TO SUBMIT PLEADINGS TO THE</p> <p>13 COURT LIKE AN ATTORNEY AND ACCORDING TO THE RULES OF COURT.</p> <p>14 I REALLY FAILED TO DO THAT, AND I SINCERELY APOLOGIZE TO</p> <p>15 YOU AND YOUR STAFF FOR THAT, FOR MY MISTAKES.</p> <p>16 THE COURT: WELL, THE GOOD NEWS IS --</p> <p>17 MR. BAGGERLY: I APOLOGIZE TO EVERYONE.</p> <p>18 THE COURT: WELL, THE GOOD NEWS IS I'VE HAD NO REASON TO</p> <p>19 REACH THE MERITS OF YOUR REQUEST. FRANKLY, I DIDN'T BOTHER</p> <p>20 TO READ THE OTHER PAPERS WHEN I REALIZED IT WASN'T PROPERLY</p> <p>21 ON CALENDAR. SO I'M A VIRGIN, I HAVE NO IDEA WHAT THE</p> <p>22 MERITS ARE.</p> <p>23 YOU CAN FILE YOUR MOTION AND SET IT FOR A HEARING</p> <p>24 WHEN WE'RE NEXT TOGETHER, OR EVEN SOONER THAN THAT, BUT I</p> <p>25 DIDN'T WANT TO JUST EXCUSE TOTAL HONORING NORMAL RULES ON</p> <p>26 THE BREACH, BECAUSE IT'S A TEACHING MOMENT FOR YOU AND ALL</p> <p>27 THE OTHER SELF-REPRESENTED PLAINTIFFS.</p> <p>28 MR. BAGGERLY: I THINK I'M IN MY THIRD MONTH OF LAW</p>	8
7	<p>1 SCHOOL. YES, I THINK YOU'RE RIGHT, YOUR HONOR.</p> <p>2 THE COURT: SOME PEOPLE ENJOY IT, SOME PEOPLE HATE IT.</p> <p>3 I HAD BOTH FEELINGS. IT WAS A VERY HARROWING EXERCISE MY</p> <p>4 FIRST SEMESTER. I REMEMBER I FELT LIKE THEY WERE BEATING</p> <p>5 ALL THIS SPONTANEITY ON ME.</p> <p>6 MR. BAGGERLY: I JUST DON'T WANT TO HAVE TO DEAL WITH</p> <p>7 CONTRACTS.</p> <p>8 THE COURT: WELL, WE'RE BACK TOGETHER ON JULY 19.</p> <p>9 WHY DON'T YOU NOTICE YOUR MOTION FOR JULY 19 AND I WILL</p> <p>10 LET THE PEOPLE WHO HAD FILED OPPOSITIONS STAND ON WHAT</p> <p>11 WAS PREVIOUSLY FILED, ASSUMING YOU DON'T PUT ANYTHING NEW</p> <p>12 AND REMARKABLE IN YOUR RESTATEMENT OR YOUR CORRECTED MOTION.</p> <p>13 MR. BAGGERLY: JUST A CORRECTED SPELLING, YOUR HONOR.</p> <p>14 THE COURT: WELL, MORE PARTICULARLY, GET IT FILED. IT</p> <p>15 NEVER GOT FILED WITH THE CLERK TO THE BEST OF MY KNOWLEDGE</p> <p>16 AND YOU NEVER PAID YOUR \$60. DO YOU THINK OTHERWISE?</p> <p>17 OH, YEAH, AND YOU NEED TO SIGN THINGS TOO WHERE</p> <p>18 SIGNATURES SHOULD BE. JUST GIVE ME AN ADEQUATE WET INK</p> <p>19 SIGNATURE. PICK UP YOUR PEN AND SCRIBBLE A SIGNATURE ON</p> <p>20 IT A COUPLE OF TIMES.</p> <p>21 MR. BAGGERLY: I WILL DO THAT, YOUR HONOR.</p> <p>22 AND I'M GOING TO RESUBMIT MY OPPOSITION TO THE</p> <p>23 PHYSICAL SOLUTION BECAUSE I THINK THAT IT WAS NOT SIGNED</p> <p>24 EITHER.</p> <p>25 THE COURT: WELL, THE INTERESTING THING ABOUT --</p> <p>26 THE BAGGERLY: I APOLOGIZE, YOUR HONOR.</p> <p>27 THE COURT: NO PROBLEM.</p> <p>28 THE INTERESTING THING ABOUT THOSE OF YOU WHO HAVE</p>	9
6	<p>1 PROVIDED THE COURT UP TO THIS POINT IN TIME WITH OPPOSITIONS</p> <p>2 TO THE PHYSICAL SOLUTION IS THAT I AM THE ONE PERSON WHO</p> <p>3 HASN'T SEEN THE PHYSICAL SOLUTION. SO THERE'S NO POINT IN</p> <p>4 MY EVEN READING THE OPPOSITIONS TO THE PHYSICAL SOLUTION</p> <p>5 BECAUSE THEY'RE COMMENTING ON SOMETHING I HAVE NOT SEEN.</p> <p>6 SO FROM MY POINT OF VIEW, YOU MAY FEEL IT'S GOOD</p> <p>7 AND TIMELY TO BRING THESE OPPOSITIONS TO THE PHYSICAL</p> <p>8 SOLUTION BEFORE THE COURT, BUT SINCE I HAVEN'T SEEN WHAT</p> <p>9 IT IS YOU'RE OBJECTING TO I'M NOT READING THIS.</p> <p>10 MR. BAGGERLY: OKAY.</p> <p>11 THE COURT: SO FROM MY POINT OF VIEW, IT'S TOTALLY</p> <p>12 HARMLESS ERROR IF THERE'S ANY DEFECTS IN YOUR PAPERS</p> <p>13 BECAUSE, AS I TRIAGE MY WORK, ONE THING I KNOW I REALLY</p> <p>14 NEEDN'T DO AT THIS POINT IS READ THE OBJECTIONS TO THE</p> <p>15 PHYSICAL SOLUTION.</p> <p>16 IT'S AN INTERESTING POINT, WHICH WE'LL GET TO WHEN</p> <p>17 WE MOVE TO THE FURTHER STATUS CONFERENCE, OF HOW SOON IT</p> <p>18 WILL BE THAT I OUGHT TO BE SEEING THE PHYSICAL SOLUTION OR</p> <p>19 SOME DRAFT OF IT, BUT I DON'T HAVE IT AS OF THIS HOUR AS I</p> <p>20 SPEAK TODAY.</p> <p>21 CORRECT, MR. PISANO?</p> <p>22 MR. PISANO: THAT'S CORRECT, YOUR HONOR.</p> <p>23 WE ACTUALLY HAVE A COPY WE'RE PREPARED TO LODGE.</p> <p>24 BUT OBVIOUSLY WE'LL ENTERTAIN WHETHER THERE ARE ANY --</p> <p>25 THE COURT: BUT THE STATE DOESN'T WANT YOU TO.</p> <p>26 MR. PISANO: UNDERSTOOD.</p> <p>27 THE COURT: AS I UNDERSTAND IT.</p> <p>28 THAT'S MR. MELNICK; RIGHT?</p>	9

10	<p>1 LEAST START A DIALOGUE.</p> <p>2 MR. PISANO: ABSOLUTELY, YOUR HONOR.</p> <p>3 MR. OSIAS: YOUR HONOR? THIS IS DAVID OSIAS.</p> <p>4 THE COURT: GO AHEAD, MR. OSIAS.</p> <p>5 MR. OSIAS: I ALSO REPRESENT THE TRUSTEE JEFFREY BACON</p> <p>6 OF VERO NERO TRUST, I THINK IN YOUR HONOR'S VOCABULARY ALSO</p> <p>7 A PIPSQUEAK IN TERMS OF WATER USE, A PRIVATE PROPERTY OWNER</p> <p>8 IN THE FAR REACHES OF THE WATERSHED THAT MAY HAVE A BASIN</p> <p>9 UNDER IT.</p> <p>10 I WAS JUST WONDERING, IN OTHER CASES I'VE HAD</p> <p>11 WITH THIS NUMBER OF PRO PERS THERE HAD BEEN LIAISON COUNSEL</p> <p>12 APPOINTED TO SORT OF CORRAL THEM AND ASSIST THE COURT AND</p> <p>13 THE PARTIES.</p> <p>14 AND SO I JUST OFFER THAT AS A SUGGESTION IN THE</p> <p>15 MEET AND CONFER FOR MR. PISANO TO CONSIDER.</p> <p>16 THE COURT: SO AS A POINT OF CURIOSITY, IS IT SOMEBODY</p> <p>17 ALIGNED ON THE SAME SIDE AS THE PRO PERS PROVIDING AID AND</p> <p>18 COMFORT, OR IS IT SOMEBODY ON THE OTHER SIDE WHO'S SUPPOSED</p> <p>19 TO SORT OF SUBSTITUTE?</p> <p>20 SO WHERE AM I LOOKING? AM I LOOKING TO FIND A</p> <p>21 WILLING LANDOWNER LAWYER TO SHEPHERD AND NURTURE THE PRO</p> <p>22 PERS?</p> <p>23 MR. OSIAS: IN MY EXPERIENCE IT IS THE FORMER, IF I</p> <p>24 HAVE YOUR SEQUENCE RIGHT. IT WAS SORT OF A COMMON COUNSEL</p> <p>25 FOR A VARIETY OF PRO PERS FUNDED BY THE OTHER SIDE, FRANKLY,</p> <p>26 BECAUSE IT SAVES COSTS BY NOT HAVING TO HAVE DELAY AND ALL,</p> <p>27 PRIMARILY FOR PROCEDURAL AND COMPLIANCE AND EXPLANATION</p> <p>28 PURPOSES, AS THEY HAVE MULTIPLE CLIENTS. AND I CAN'T RECALL</p>	12
11	<p>1 OR I WOULD HAVE SAID IT, THAT THERE'S SOME CIVIL PROCEDURE</p> <p>2 SECTION THAT PROVIDES FOR IT WHEN THERE'S A SUFFICIENT NEED.</p> <p>3 AND THEY'RE NOT REALLY STRONG ADVOCATES OTHER THAN</p> <p>4 TO MAKE SURE PEOPLE ARE WELL INFORMED, UNDERSTAND DEADLINES,</p> <p>5 EVEN SOME OF THE THINGS MAYBE THAT MR. BAGGERLY WENT THROUGH</p> <p>6 ALREADY TODAY. AND I WAS JUST TRYING TO BE HELPFUL.</p> <p>7 THE COURT: SO MR. OSIAS, YOU'RE A LICENSED CALIFORNIA</p> <p>8 ATTORNEY; CORRECT?</p> <p>9 MR. OSIAS: I AM.</p> <p>10 THE COURT: ARE YOU DESIROUS OF UNDERTAKING THIS ROLE IF</p> <p>11 I COULD ONLY GET THE CITY OF BUENAVENTURA TO SUBSIDIZE YOU?</p> <p>12 MR. OSIAS: I AM NOT. I THINK MY CLIENT IS AT THE</p> <p>13 MOMENT CONTENT TO PAY ME TO REPRESENT MY CLIENT, HOPEFULLY</p> <p>14 IN A SHORT-LIVED REPRESENTATION ONCE I GET AROUND TO HAVING</p> <p>15 A MEET AND CONFER WITH MR. PISANO AND MR. HAGERTY.</p> <p>16 SO I WASN'T SPEAKING BECAUSE I WAS SEEKING TO GAIN</p> <p>17 ANY NEW CLIENTS.</p> <p>18 THE COURT: CAN YOU GIVE ME, MR. OSIAS, AN EXAMPLE OF</p> <p>19 A CASE IN STATE OR FEDERAL COURT WHERE YOU'VE SEEN THIS</p> <p>20 TECHNIQUE USED TO GOOD ADVANTAGE.</p> <p>21 I, IN MY 23 YEARS OF EXPERIENCE AS A JUDGE, AND</p> <p>22 MARRIED TO A JUDGE WHO'S BEEN ON THE BENCH 25 YEARS, HAVE</p> <p>23 NOT COME ACROSS THIS, BUT I'M ALWAYS GLAD TO LEARN SOMETHING</p> <p>24 NEW BECAUSE IN SOME OF OUR MASS TORTS WE HAVE MANY DIFFERENT</p> <p>25 PLAINTIFFS AND MANY DIFFERENT LAW FIRMS BUT NOT SO MANY</p> <p>26 SELF-REPRESENTED PEOPLE WHO REALLY LITIGATE. WE SOMETIMES</p> <p>27 GET PEOPLE WHO GET FIRED BY THEIR PLAINTIFF FIRMS WHO</p> <p>28 BASICALLY SOMETIMES GET LEFT ON THE SIDE OF THE ROAD ON</p>	13
10	<p>1 AN ORDER TO SHOW CAUSE FOR A FAILURE TO PROSECUTE. BUT</p> <p>2 HERE, THE CROSS-DEFENDANTS AND PEOPLE WHO ARE OWNERS IN</p> <p>3 THE GROUNDWATER BASIN HAVE INTERESTS THAT CAN'T SO READILY</p> <p>4 BE ABANDONED JUST BY NONPARTICIPATION.</p> <p>5 SO BACK TO YOU, MR. OSIAS. CAN YOU GIVE ME AN</p> <p>6 EXAMPLE OF WHERE YOU'VE SEEN THIS TACTIC USED?</p> <p>7 MR. OSIAS: YEAH, I SAW IT IN -- AND YOUR HONOR</p> <p>8 WAS PRETTY CLOSE TO THE MARK, IN A CONSUMER PRODUCTS</p> <p>9 LIABILITY SETTING WHERE THE USERS OF A CONSUMER PRODUCT</p> <p>10 HAD POTENTIALLY SMALL CLAIMS, BUT THERE WERE LOTS OF THEM,</p> <p>11 AND THEREFORE DID NOT WANT TO GO OUT AND HIRE A LAWYER,</p> <p>12 AND IT WAS BEFORE CLASS MOTIONS HAD BEEN FILED AND BEFORE</p> <p>13 CLASS CERTIFICATION. AND IN FACT I THINK IN ONE OF THE</p> <p>14 CASES I THINK THERE WASN'T A CLASS CERTIFIED ULTIMATELY.</p> <p>15 AND I SAW IT AS A BYSTANDER. I WAS ACTUALLY IN</p> <p>16 A BANKRUPTCY CASE WHERE THE LIAISON CAME IN AND SAID THAT IT</p> <p>17 HAD ALL THESE PRO PERS AND COULD THAT CONTINUE IN BANKRUPTCY</p> <p>18 COURT. AND I CAN'T REMEMBER WHAT HAPPENED THERE, BUT THAT'S</p> <p>19 WHERE I HAD SEEN IT HAPPEN.</p> <p>20 THE COURT: WAS IT A FEDERAL JUDGE THAT HAD IT BEFORE</p> <p>21 IT GOT TO BANKRUPTCY OR WAS IT IN A STATE COURT SETTING?</p> <p>22 MR. OSIAS: NO, IT WAS IN -- I BELIEVE IT WAS STATE</p> <p>23 COURT. BUT IT WAS OUT OF STATE. IT WAS IN -- WELL, I</p> <p>24 SHOULDN'T SAY, I DON'T REMEMBER. I APOLOGIZE, YOUR HONOR.</p> <p>25 THE COURT: AND NOT IN CALIFORNIA?</p> <p>26 MR. OSIAS: I THINK THE ORIGINAL ACTION WAS IN</p> <p>27 NEW YORK. BUT THERE WERE CALIFORNIA CASES, ALSO.</p> <p>28 THE COURT: WELL, WE CERTAINLY HAVE A WEBSITE TRYING</p>	11
11	<p>1 TO MAKE THINGS USER-FRIENDLY FOR THE SELF-REPRESENTED.</p> <p>2 MR. PISANO, DO YOU HAVE ANY COMMENTS ON MR. OSIAS'S</p> <p>3 CREATIVE SUGGESTION?</p> <p>4 MR. PISANO: WELL, YOUR HONOR, AS THE COURT JUST</p> <p>5 POINTED OUT, WE'VE BEEN DOING EVERYTHING WE CAN TO MAKE</p> <p>6 THIS AS USER-FRIENDLY AS POSSIBLE FOR THE CROSS-DEFENDANTS.</p> <p>7 WE DON'T THINK THAT A LIAISON COUNSEL IS NECESSARY</p> <p>8 RIGHT NOW, AND IT'S CERTAINLY SOMETHING WE CAN LOOK AT,</p> <p>9 BUT FROM OUR PERSPECTIVE, YOU KNOW, WE'RE TRYING TO HELP</p> <p>10 THOSE CROSS-DEFENDANTS THAT CALL UP AND ASK WHAT THEY DO</p> <p>11 WITH THESE NOTICES OF ACKNOWLEDGEMENT AND RECEIPT AND THINGS</p> <p>12 OF THAT NATURE. I DON'T KNOW THAT WE NECESSARILY NEED TO</p> <p>13 APPOINT A LIAISON COUNSEL FOR THAT.</p> <p>14 THE COURT: OKAY. WELL, REMAIN MINDFUL OF THIS.</p> <p>15 SO I GUESS WE PROBABLY OUGHT TO TURN TO THE</p> <p>16 MOTION TO BIFURCATE AND TO PARTIALLY LIFT THE STAY.</p> <p>17 IT SEEMS LIKE EVERYONE DOES AGREE THIS IS</p> <p>18 THE RIGHT ISSUE TO LITIGATE FIRST, THE REAL QUESTION IS</p> <p>19 HOW QUICKLY DO WE GET DOWN THE PATH.</p> <p>20 SO IT'S YOUR MOTION, MR. PISANO OR MR. HAGERTY.</p> <p>21 I'LL LET YOU SPEAK FIRST, IF YOU WANT, TO THE COURT'S</p> <p>22 TENTATIVE. I'M NOT TRYING TO TODAY ROADMAP THE EXACT</p> <p>23 DISCOVERY PROCESS BECAUSE I THINK I OUGHT TO LEAVE IT</p> <p>24 TO THE LAWYERS TO MEET AND CONFER ABOUT IT ONCE YOU HAVE</p> <p>25 SOME SENSE OF THE TIME WINDOW THAT YOU'RE WORKING WITH.</p> <p>26 BUT ALL THAT BEING SAID --</p> <p>27 MR. PISANO: YOUR HONOR, THE CITY'S PREPARED TO</p> <p>28 SUBMIT ON THE TENTATIVE. AS WE PUT IN OUR REPLY, WE</p>	10

14

1 THINK FEBRUARY 2022 IS A REASONABLE DATE, AND WE THINK
2 THE COURT'S SUGGESTION ABOUT A MEET AND CONFER OVER THE
3 NEXT 30 DAYS ON A DISCOVERY AND MOTION SCHEDULE MAKES
4 A LOT OF SENSE.
5 THE COURT: SO LET ME HEAR FROM SOMEBODY WHO WANTS
6 TO BE THE ADVOCATE FOR THE EAST OJAI GROUP AS IT'S
7 SELF-DEFINED.
8 MR. PATTERSON: GOOD AFTERNOON, YOUR HONOR. THIS
9 IS GREG PATTERSON ON BEHALF OF THE EAST OJAI GROUP.
10 FEBRUARY MAY WORK. YOU KNOW, I THINK WE MAY WANT
11 TO HAVE THAT MEET AND CONFER AND TALK ABOUT HOW THAT GOES
12 FORWARD, BUT IT'S A PRETTY AGGRESSIVE SCHEDULE GIVEN THE
13 FACT THAT THE CITY'S HAD YEARS TO PREPARE FOR THIS AND
14 THERE'S GOING TO BE A LOT OF FOLKS OUT HERE WHO ARE NOW
15 JUST TRYING TO GRAPPLE WITH WHAT THE PHYSICAL SOLUTION
16 MAY REPRESENT TO THEM.
17 IT'S GOING TO BE VERY EXPERT-WITNESS INTENSIVE
18 AND WE'RE GOING TO BE GOING THROUGH, FROM WHAT I CAN SEE,
19 YOU KNOW, A SUMMER AND FALL WHERE MOST PEOPLE ARE TRYING
20 TO FINALLY TAKE A VACATION AND SO SCHEDULING MIGHT BE KIND
21 OF DIFFICULT.
22 SO I'M OKAY WITH THE FEBRUARY 2022 DATE WITH THE
23 CAVEAT THAT, YOU KNOW, WE MAY WANT TO KIND OF REVISIT THIS
24 AS WE GET INTO THE FALL AND SEE HOW FAR ALONG WE ARE AND
25 TALK OR CHAT WITH -- YOU KNOW, HAVE A MEET AND CONFER AND
26 THEN MAYBE POSSIBLY CHAT WITH THE COURT ABOUT WHERE WE'RE
27 AT AND WHETHER WE CAN MEET A FEBRUARY DATE.
28 THE COURT: WELL, IT IS AN INTERESTING TIME BECAUSE

15

1 WE'VE ALL SUFFERED FROM THE NECESSARY LOCKDOWN AND NOW
2 THINGS ARE CHANGING. AND I HOPE TO GET ON A FLIGHT MYSELF
3 FOR THE FIRST TIME IN OVER A YEAR TO GO RECREATE AT A
4 NATIONAL PARK UP NORTH FOR A WEEK. SO I DO UNDERSTAND THE
5 VIRTUE OF A VACATION.
6 BUT BY THE SAME TOKEN, BEFORE I CAME TO THE COURT
7 I WAS A GIBSON DUNN ASSOCIATE CLIMBING MY WAY UP THE GREASY
8 POLE TO A GIBSON DUNN PARTNER FOR MANY YEARS, AND SO THE
9 IDEA OF MAKING PEOPLE WORK WHEN THEY HAVE A CASE IN FRONT
10 OF THEM IS FAIRLY COMMON TO SOMEBODY WITH MY BACKGROUND.
11 SO, THE IDEA THAT YOU ALL CAN'T FIND TIME TO HOLD
12 DEPOSITIONS BETWEEN NOW AND FEBRUARY BECAUSE SOMEBODY OR
13 OTHER HAS GOT A VACATION MAY FALL ON DEAF EARS BECAUSE, AT
14 LEAST FOR THE LARGER PARTIES, THIS IS NOT A SINGLE-LAWYER
15 STAFFING, OR AT LEAST IT SHOULDN'T BE, AND YOU NEED TO
16 HAVE AT LEAST TWO OR THREE PEOPLE ON A TEAM -- FAILING
17 SETTLEMENT.
18 I DON'T QUITE YET UNDERSTAND STATISTICALLY WHETHER
19 I HAVE GOT A 20 PERCENT CHANCE OF A HAPPY COMPRISE OR A 60
20 PERCENT CHANCE OF A HAPPY COMPROMISE OR A 6 PERCENT CHANCE
21 OF A COMPRISE, AND I ALSO DON'T KNOW WHICH WAY TO LEAN INTO
22 YOU FOLKS IN ORDER TO IMPROVE THOSE ODDS.
23 AND I SAY THAT OUT OF IGNORANCE BECAUSE IF I COULD
24 FIGURE OUT HOW TO LEAN INTO YOU TO IMPROVE THE ODDS OF A
25 SETTLEMENT I THINK I'D DO THAT. BUT, FRANKLY, THIS BEING
26 MY FIRST WATER CASE, AND THIS HAVING A LOT OF ONE-OFFS ABOUT
27 THE NUMBER OF PARTIES AND THE ISSUES, I DON'T KNOW HOW TO
28 APPLY PRESSURE.

16

1 IF IT WAS ANOTHER, YOU KNOW, PHARMA PRODUCTS
2 LIABILITY CASE OR A WAGE AND HOUR CLASS ACTION I WOULD
3 HAVE A MUCH BETTER SENSE OF WHERE TO FIND SOME LEVERS.
4 BUT I AM CLUELESS AT THE MOMENT.
5 BUT THAT BEING NOTED, I'D URGE YOU TO PLAN YOUR
6 VACATIONS EARLY SO THAT ONCE THE PAPER DISCOVERY IS DONE
7 AND THE DEPOS HAVE TO HAPPEN YOU'RE NOT TRYING TO TELL
8 ME THAT YOU'RE TAKING A THREE-WEEK VACATION IN NOVEMBER.
9 FOR THE STATE, THIS SEEMED TO BE THE STATE'S
10 IDEA OF A GOOD DATE.
11 MR. MELNICK: THAT'S CORRECT, YOUR HONOR.
12 THE COURT: SO WHO WANTS TO BE HEARD TO SAY THAT I
13 SHOULDN'T BIFURCATE WITH AN ASPIRATION TO SET A FEBRUARY
14 TRIAL DATE?
15 MR. WHITMAN: ANDREW WHITMAN, YOUR HONOR.
16 THE COURT: REPRESENTING?
17 MR. WHITMAN: I REPRESENT MYSELF AS WELL AS THREE OTHER
18 DEFENDANTS NAMED WHITMAN.
19 THE COURT: FAIR ENOUGH. THANK YOU.
20 GO AHEAD.
21 MR. WHITMAN: SO MY CONCERN IS THAT I HAVE A RIGHT
22 TO FILE A MOTION FOR SUMMARY JUDGMENT AND A FEBRUARY DATE
23 MAKES THAT JUST ABOUT IMPOSSIBLE.
24 I'M ONE OF YOUR PIPSQUEAKS. MY CLIENTS ARE
25 PIPSQUEAKS. WE DON'T THINK WE SHOULD BE INVOLVED IN THIS
26 AT ALL. I THINK THAT THERE'S PROBABLY GOING TO BE A LOT
27 OF DEFENDANTS WHO ARE FROM THE OJAI BASIN OR THE UPPER OJAI
28 BASIN WHO DON'T BELIEVE THAT THEY BELONG IN THIS LITIGATION

17

1 AND WE NEED TO HAVE THE OPPORTUNITY TO TRY TO TEST THAT WITH
2 YOUR HONOR.
3 THE COURT: SO MR. WHITMAN, YOU'RE COUNSEL FOR OTHERS OR
4 ARE YOU REPRESENTING YOURSELF?
5 MR. WHITMAN: I REPRESENT MYSELF AS WELL AS THREE OTHER
6 DEFENDANTS.
7 THE COURT: SO THAT TELLS ME YOU'RE A LICENSED
8 CALIFORNIA ATTORNEY; CORRECT?
9 MR. WHITMAN: THAT'S TRUE.
10 THE COURT: AND THE LANE IN QUESTION THAT YOU'RE
11 REPRESENTING IS LOCATED ENTIRELY IN THE UPPER OJAI BASIN,
12 THE EASTERN EDGE OF OJAI, OR SOMEWHERE ELSE, SIR?
13 MR. WHITMAN: ONE OF THE PROPERTIES IS IN THE OJAI
14 BASIN, GROUNDWATER BASIN, AND THE OTHER IS LOCATED IN UPPER
15 OJAI AND I WOULD ARGUE NOT WITHIN ANY BASIN THAT'S RELEVANT
16 TO THIS LITIGATION.
17 THE COURT: SO THAT'S THE ROAD YOU'D GO ON IF YOU HEAD
18 EAST OUT OF DOWNTOWN OJAI. YOU'D TURN RIGHT LEAVING THE
19 OJAI VALLEY INN AND HEAD EAST, YOU DON'T GO TO THE CITY OF
20 VENTURA, BUT INSTEAD YOU HEAD EAST TO GO UP OVER A TWISTY
21 PASS; CORRECT?
22 MR. WHITMAN: WELL, NO. ACTUALLY, IT'S ON THE
23 DOWNHILL SIDE WHERE THE WATER FLOWS TO SANTA PAULA.
24 THE COURT: BUT IT IS IN THAT DIRECTION. YOU HAVE
25 TO GO OUT THAT WAY TO FIND YOUR WAY TO SANTA PAULA.
26 MR. WHITMAN: YOU'RE RIGHT. YEAH, YOU'VE GOT TO GO
27 UPHILL FROM OJAI TO GET THERE.
28 THE PROPERTY IN QUESTION IS ON THE DOWNHILL

18	<p>1 SIDE. THE CREEK THAT RUNS THROUGH THE PROPERTY RUNS TO</p> <p>2 CESAR CREEK, WHICH RUNS TO SANTA PAULA AND THEN OUT TO</p> <p>3 THE SANTA CLARITA RIVER.</p> <p>4 THE COURT: BUT IT'S A CLAIM AS TO THE GROUNDWATER</p> <p>5 AND NOT THE RIPARIAN; CORRECT, SIR?</p> <p>6 MR. WHITMAN: IT IS THAT CLAIM, YES.</p> <p>7 THE COURT: OKAY.</p> <p>8 THE COURT: SO SUMMARY JUDGMENT, 75 DAYS NOTICE</p> <p>9 NORMALLY, HEARD A MONTH BEFORE TRIAL, TO BE HEARD, SAY,</p> <p>10 MID-JANUARY. BACK UP 75 DAYS FROM MID-JANUARY, YOU'LL</p> <p>11 HAVE TO FILE IT BY NOVEMBER 1 ESSENTIALLY.</p> <p>12 IS MY MATH ROUGHLY CORRECT, MR. WHITMAN?</p> <p>13 MR. WHITMAN: YEAH, THAT'S CORRECT.</p> <p>14 AND THE PROBLEM IS, WE MAY BE SOUNDING LIKE WE'VE</p> <p>15 BEEN AT THIS A LONG TIME, BUT ME AND MY CLIENTS AND THE</p> <p>16 REST OF THE SIMILARLY-SITUATED DEFENDANTS, WE HAVEN'T HAD</p> <p>17 ANY RIGHT TO DO ANYTHING.</p> <p>18 THE COURT: SO IF I LIFT ANY REMAINING STAY ON DISCOVERY</p> <p>19 TODAY, WHAT DO YOU NEED BEFORE YOU BRING YOUR MOTION FOR</p> <p>20 SUMMARY JUDGMENT, MR. WHITMAN?</p> <p>21 MR. WHITMAN: THAT'S GOING TO DEPEND UPON A LOT OF</p> <p>22 RESPONSES TO WRITTEN DISCOVERY.</p> <p>23 THE COURT: AND REMIND ME, HAS THERE FUNCTIONALLY BEEN</p> <p>24 A STAY ON DISCOVERY, EITHER EXPRESS OR IMPLIED, UP TO TODAY,</p> <p>25 MR. WHITMAN?</p> <p>26 MR. WHITMAN: THAT'S MY UNDERSTANDING.</p> <p>27 THE COURT: MR. PISANO, YOU CONCUR?</p> <p>28 MR. PISANO: YES, YOUR HONOR.</p>	20
19	<p>1 THE COURT: OKAY.</p> <p>2 SO ASSUMING I LIFT THE STAY ON DISCOVERY TODAY,</p> <p>3 YOU CAN SERVE YOUR WRITTEN DISCOVERY AND SEE WHAT KIND OF</p> <p>4 ANSWERS YOU'RE GOING TO GET, PARTICULARLY TO CONTENTION</p> <p>5 INTERROGATORIES, WHICH WOULD PROBABLY BE A HIGHLY USEFUL</p> <p>6 THING.</p> <p>7 DO YOU EXPECT YOU'LL NEED EXPERTS TO ADVANCE YOUR</p> <p>8 MOTION FOR SUMMARY JUDGMENT, MR. WHITMAN?</p> <p>9 MR. WHITMAN: IT WOULD PROBABLY DEPEND UPON DISCOVERY</p> <p>10 RESPONSES.</p> <p>11 THE COURT: MR. PISANO, YOUR COMMENTS AS TO</p> <p>12 MR. WHITMAN'S EXPRESS CONCERNS?</p> <p>13 I DO UNDERSTAND WHY THE PEOPLE IN THE UPPER OJAI</p> <p>14 BASIN HAVE MORE THAN A PASSING CURIOSITY AS TO WHY THEY</p> <p>15 FIND THEMSELVES IN THIS LAWSUIT.</p> <p>16 MR. HAGERTY: YOUR HONOR, SHAWN HAGERTY ON BEHALF OF</p> <p>17 THE CITY. IF I MAY ADDRESS THIS ISSUE.</p> <p>18 PART OF THE MEET AND CONFER WILL OF COURSE BE</p> <p>19 ABOUT MOTION PRACTICE, AND SO WE CAN CERTAINLY ADDRESS</p> <p>20 THAT. WE'RE HAPPY TO WORK WITH MR. WHITMAN AND OTHERS.</p> <p>21 I WOULD JUST POINT OUT THAT --</p> <p>22 THE COURT: YOU CAN OFFER TO WAIVE THE 75 DAYS.</p> <p>23 MR. HAGERTY: WELL, WE'LL TALK ABOUT WHATEVER IS</p> <p>24 APPROPRIATE, YOUR HONOR. BUT I MEAN, THE INTERESTING THING</p> <p>25 ABOUT THIS PARTICULAR ISSUE IS THAT THIS IS WHAT PHASE I</p> <p>26 TRIAL IS ABOUT. SO I WOULD LOVE TO --</p> <p>27 THE COURT: BUT HE THINKS IT'S SO CLEAR-CUT THERE'LL</p> <p>28 BE NO NEED FOR A TRIAL.</p>	21
20	<p>1 MR. HAGERTY: IT WON'T BE CLEAR-CUT. THERE MAY BE AN</p> <p>2 ASPECT OF WHAT HE SAID AS FAR AS THE UPPER OJAI AND PART</p> <p>3 OF WHAT THE COURT WILL NEED TO DO IN THAT FIRST PHASE WILL</p> <p>4 BE TO ADDRESS A REALITY THAT MR. WHITMAN HAS POINTED OUT,</p> <p>5 THAT IN THE UPPER OJAI THERE IS A PORTION THAT DOES DRAIN</p> <p>6 TO A DIFFERENT WATERSHED. AND WE'VE ALWAYS ACKNOWLEDGED</p> <p>7 THAT, AND IT'S PART OF THE REASON WE TEED UP THIS ISSUE.</p> <p>8 SO THERE MAY BE SOME ISSUES WE COULD WORK OUT</p> <p>9 WITH MR. WHITMAN AS TO THE OJAI, BUT THERE WILL BE FACT</p> <p>10 QUESTIONS UNEQUIVOCALLY.</p> <p>11 HE CAN BRING HIS MOTION, WE WOULD CERTAINLY</p> <p>12 OPPOSE IT, AND THEN WE'D TRY IT A MONTH LATER.</p> <p>13 SO I THINK A FEBRUARY DATE MAKES A LOT OF SENSE.</p> <p>14 WE'LL WORK WITH MR. WHITMAN AND OTHERS, AND IF WE NEED TO</p> <p>15 WE CAN, YOU KNOW, DEAL WITH ISSUES IN TERMS OF ALLOWING</p> <p>16 THEM TO BRING MOTIONS THAT THEY FEEL ARE NECESSARY. BUT</p> <p>17 IN THE END IT'S GOING TO BE RESOLVED IN THE FIRST PHASE.</p> <p>18 THE COURT: SO MR. WHITMAN, I'M NOT DRAWING ANY</p> <p>19 CONCLUSIONS THAT THERE IS OR IS NOT A CERTAIN TRIABLE</p> <p>20 ISSUE OF MATERIAL FACT, I'M JUST SIMPLY THINKING ABOUT</p> <p>21 WHETHER OR NOT EXPECTING YOU TO BE READY TO FILE A MOTION</p> <p>22 FOR SUMMARY JUDGMENT ON NOVEMBER 1 WHEN YOU GET TO START</p> <p>23 DISCOVERY ON JUNE 21 IS FAIR. THAT WOULD GIVE YOU ALL OF</p> <p>24 JULY, AUGUST, SEPTEMBER, OCTOBER, FOUR MONTHS, TO DO THE</p> <p>25 DISCOVERY, WHICH COULD, IF EVERYTHING BREAKS RIGHT, BE</p> <p>26 DOABLE. AND, IF NOT, YOU'LL HAVE GOOD CAUSE TO ASK FOR A</p> <p>27 CONTINUANCE OF THE DEADLINE BY WHICH YOU MOVE FOR SUMMARY</p> <p>28 JUDGMENT BASED ON WHATEVER RECORD YOU CAN CREATE.</p>	21

22

1 COMING FROM OTHER COUNTRIES AND STUFF. SO I WOULDN'T --
 2 I WOULDN'T KNOW HOW INTERESTED THEY ARE.
 3 THE COURT: BECAUSE MY QUESTION, BASICALLY THINKING
 4 OUT LOUD, IS WITH WHOM CAN YOU ALIGN YOURSELF, BECAUSE IT
 5 MAY BE YOUR INTERESTS AND YOUR CLIENTS' INTERESTS ALIGN
 6 WITH, YOU KNOW, SOME BIGGER FORCE WHO CAN BASICALLY, YOU
 7 KNOW, SWING THE SLEDGE HAMMER FOR YOU.
 8 MR. WHITMAN: I UNDERSTAND THAT, YOUR HONOR, AND I
 9 WOULD LOVE TO SEE THAT HAPPEN. AND I THINK WHO I WOULD
 10 ALIGN WITH IS PROBABLY ABOUT, YOU KNOW, 500 OTHER
 11 PIPSQUEAKS. AND MOST OF THEM ARE IN THE SAME BOAT AS
 12 THAT OF THE GRIGSBY FAMILY THAT YOU TALKED ABOUT EARLIER
 13 WHERE THIS IS ALL JUST CRASHING DOWN AROUND THEIR HEADS.
 14 AND I DON'T HAVE THE PERSONAL TIME. YOU KNOW,
 15 MY OWN LAW PRACTICE IS NOT WATER LAW. I'M REPRESENTING
 16 FAMILY INTERESTS AND FAMILY MEMBERS. I DON'T HAVE THE
 17 RESOURCES TO GIVE UP MY SUCCESSFUL HEALTHCARE LITIGATION
 18 PRACTICE.
 19 SO IT SOUNDS LIKE A GOOD IDEA THAT WE WOULD
 20 COLLABORATE, BUT SO FAR I HAVEN'T SEEN MUCH MOVEMENT IN
 21 THAT DIRECTION.
 22 THE COURT: WELL, OBVIOUSLY OTHER PEOPLE WHO HAVE LAND
 23 IN THE SAME AREA MAY WISH TO REACH OUT TO MR. WHITMAN
 24 OFFLINE OR OTHERWISE, OR YOU CAN PERHAPS PUT A MESSAGE ON
 25 THE BULLETIN BOARD, ALTHOUGH YOU MAY WANT TO DO YOUR EFFORTS
 26 AT TEAMWORK OUT OF SIGHT OF CITY OF VENTURA AND OTHER
 27 LITIGANTS IN THE CASE.
 28 WAS THERE ANOTHER VOICE THAT WANTED TO BE HEARD?

23

1 MS. JACOBSON: YES, YOUR HONOR. THIS IS HOLLY JACOBSON
 2 FOR THE CITY OF OJAI.
 3 THE COURT: GO AHEAD, MA'AM.
 4 MS. JACOBSON: I'D JUST LIKE TO SPEAK ON THE DISCOVERY
 5 ISSUE THAT MAY OR MAY NOT RESOLVE SOME OF THE CONCERNS
 6 OF THE QUOTE-UNQUOTE PIPSQUEAKS.
 7 THE ONLY CONCERN I REALLY HAVE WITH THE SUGGESTION
 8 THAT THE PARTIES MEET AND CONFER ON DEADLINES IS THAT I
 9 DON'T WANT VENTURA'S EVIDENCE AND DISCOVERY RELATED TO THE
 10 CONNECTIVITY ISSUE AND THE BOUNDARIES OF BASINS TO BE PUSHED
 11 BACK SO FAR THAT WE RUN INTO THESE ISSUES THAT MAY AFFECT
 12 MOTIONS FOR SUMMARY JUDGMENT AND OTHERWISE.
 13 SO FOR EXAMPLE, EXPERT DISCOVERY AS ORIGINALLY
 14 PROPOSED, THE DEADLINES WERE TO WITHHOLD THAT INFORMATION
 15 AS CLOSE TO TRIAL AS POSSIBLE.
 16 THE FACT IS THAT REALLY THE CRUX OF THIS ISSUE IS
 17 WHAT DOES VENTURA HAVE? IT IS THEIR BURDEN OF PROOF TO SHOW
 18 CONNECTIVITY ISSUES BETWEEN THESE BASINS. THEY SAY THEY
 19 HAVE IT, THEY'VE SAID THAT FOR A WHILE, IT'S THEIR BURDEN,
 20 THEY MUST SHOW IT, AND SO THE SOONER THAT INFORMATION IS
 21 SHARED WITH THE PARTIES THE SOONER WE CAN GET THROUGH
 22 PHASE I.
 23 SO MY SUGGESTION WOULD BE THAT WE HAVE A
 24 PRETTY QUICK TURNAROUND ON DISCOVERY TIMELINES FOR THAT
 25 INFORMATION, AND MAYBE THAT WOULD HELP ADDRESS SOME OF
 26 THESE ISSUES.
 27 THE COURT: IS OJAI IN CONCEPT AGREEABLE TO THE CITY
 28 OF VENTURA'S CURRENT PHYSICAL SOLUTION, OR ARE YOU IN A

24

1 MORE ANTAGONISTIC POSITION?
 2 MS. JACOBSON: I WOULD SAY WE ARE NOT CURRENTLY
 3 AGREEABLE.
 4 THE COURT: SO YOU'RE READY TO PICK THE FIGHT AND TRY
 5 TO DISPROVE SOME OF VENTURA'S THEORIES FOR THE ULTIMATE
 6 BENEFIT OF PROTECTING THE CITY OF OJAI'S WATER RESOURCES?
 7 MS. JACOBSON: I WOULD SAY THAT THE CITY OF OJAI, WHICH
 8 IS SMALL CITY -- WE ARE NOT A PIPSQUEAK BUT WE ARE BY NO
 9 MEANS A LARGE PLAYER -- CONTENTS AND HAS ALSO CONTENTED
 10 THAT THE OJAI BASIN IS NOT CONNECTED TO THE SURFACE WATERS
 11 AND THERE'S NO EVIDENCE TO ESTABLISH THAT, AND THAT ALL OF
 12 THESE PIPSQUEAKS AND THE CITY SHOULDN'T BE INVOLVED IN THIS
 13 LITIGATION AT ALL.
 14 THE COURT: AND THAT'S A DIFFERENT QUESTION THAN WHETHER
 15 OR NOT THE LAND SOME MILES REMOVED TO THE EAST, KNOWN AS THE
 16 EAST OJAI BASIN, IS EVEN MORE REMOVED FROM THE WATER COURSE
 17 THAT VENTURA CARES ABOUT.
 18 MS. JACOBSON: YES, THAT IS NOT WITHIN MY SCOPE. I CAN
 19 MAKE ASSUMPTIONS, BUT THAT'S NOT WITHIN MY SCOPE.
 20 THE COURT: BECAUSE IT'S BEYOND THE LIMITS OF THE CITY
 21 OF OJAI ITSELF, CORRECT?
 22 MS. JACOBSON: CORRECT.
 23 THE COURT: OKAY.
 24 WHO ELSE WANTS TO BE HEARD ON THIS QUESTION OF
 25 THE MOTION FOR BIFURCATION AND THE TIMING OF THE TRIAL?
 26 MS. BLOSS: THIS IS LOA BLOSS FROM THE UPPER OJAI.
 27 THE COURT: YES. GREETINGS, MS. BLOSS.
 28 MS. BLOSS: HELLO.

25

1 I HAVE SOME CONCERNS ABOUT THIS 30-DAY MEET AND
 2 CONFER FOR DISCOVERY AND HOW THAT MAY AFFECT THE TRIAL DATE
 3 EVENTUALLY. AND ALSO I HAVE CONCERNS ABOUT HOW A RULING ON
 4 MR. BAGGERLY'S MOTION FOR AN INDEPENDENT EXPERT MAY PLAY
 5 INTO THIS.
 6 BECAUSE IF THE COURT GRANTS THAT MOTION, AND I
 7 CONCLUDE IT WILL, THEN THAT PERSON I PRESUME WILL NEED
 8 TO REVIEW -- I DON'T KNOW HOW THIS WORKS, BUT MAY HAVE TO
 9 REVIEW SOME OF THE INFORMATION THAT'S COME OUT IN DISCOVERY
 10 OR HAVE THEIR OWN QUESTIONS. I DON'T KNOW HOW THIS WORKS.
 11 I WILL REPEAT, I AM LICENSED IN CALIFORNIA BUT
 12 I HAVE NEVER PRACTICED HERE, SO IN TERMS OF ALL OF THIS
 13 MOTION PRACTICE THAT'S COMING UP IT'S VERY DIFFICULT, IF
 14 NOT IMPOSSIBLE, FOR ME TO TRY TO GET MY ARMS AROUND IT
 15 IN A TIMELY FASHION.
 16 SO I AM CONCERNED ABOUT THE THIRD STAY. WHAT
 17 AM I GOING TO DO ABOUT IT? I DON'T KNOW. DO I TALK TO
 18 MR. WHITMAN? DO I TALK TO OJAI? I MEAN, WHAT? I'M A
 19 PIPSQUEAK, AND THERE ARE OTHERS UP HERE THAT ARE LIKE
 20 I AM.
 21 AND I WAS VERY TAKEN WITH THE SUGGESTION OF
 22 MR. OSIAS OF HAVING KIND OF A LIAISON COUNSEL, BUT I WOULD
 23 NOT HAVE THAT PERSON ON THE SIDE OF THE CITY BECAUSE I DON'T
 24 THINK THAT THAT SERVES ANYBODY. BUT A NEUTRAL WOULD BE
 25 FINE. AND I UNFORTUNATELY DON'T HAVE ANY NAME TO SUGGEST,
 26 BUT...
 27 SO I HAVE CONCERNS ABOUT THE TIMEFRAME AND HOW
 28 SOMEONE LIKE ME IS GOING TO BE ABLE TO DEAL WITH THE

26

1 IMPENDING TRIAL. AND MAYBE THAT'S MY PROBLEM AND I'LL JUST
 2 HAVE TO FIGURE IT OUT.
 3 THE COURT: WELL, IT'S MINE ALSO, MS. BLOSS, IF IT'S
 4 ANY COMFORT FOR YOU, BECAUSE I AM A NEUTRAL AND I HAVE TO
 5 TRY TO MANAGE THIS FAIRLY FOR ALL INVOLVED, INCLUDING FOR
 6 BOTH THE BIG AND THE LITTLE.
 7 MR. COSGROVE, YOUR CLIENT AT LAST REPORT WASN'T
 8 EXACTLY TOTALLY SINGING KUMBAYA WITH THE CITY OF VENTURA.
 9 IS THAT STILL YOUR CLIENT'S POSTURE?
 10 MR. COSGROVE: I THINK THAT'S A FAIR CHARACTERIZATION,
 11 BUT I DON'T WANT TO SAY THAT WE DON'T THINK THAT THERE
 12 IS GROUND FOR COMMON AGREEMENT AND COMMON PRINCIPLE.
 13 WE HAVE SOME SERIOUS CONCERNS ABOUT THE CURRENT
 14 DRAFT, BUT THERE HAVE BEEN ONGOING DISCUSSIONS BETWEEN
 15 THE CITY AND CASITAS THAT I UNDERSTAND ARE MOVING SLOWLY
 16 BUT PRODUCTIVELY.
 17 I HAVE SAT IN CLOSED SESSION WITH THE MEMBERS
 18 OF THE BOARD AND GONE OVER IN VERY GREAT DETAIL THE ASPECTS
 19 OF THE STIPULATED JUDGMENT, AND WE ARE WORKING ON SOME
 20 PROPOSALS TO GO BACK TO THE PROPOSING PARTIES -- NOT JUST
 21 THE CITY BUT ALL OF THE PROPOSING PARTIES -- WITH SOME
 22 ADDITIONAL THOUGHTS.
 23 THE COURT: AND YOUR CLIENT IS NOT IN ANY WAY AFFILIATED
 24 WITH THIS ENTITY CALLED CASITAS MUTUAL WATER COMPANY, WHICH
 25 THEY CAN'T FIND TO SERVE PROCESS.
 26 MR. COSGROVE: NOT THAT I'M AWARE OF.
 27 THE COURT: SO FOR PURPOSES OF HASHING OUT A DISCOVERY
 28 SCHEME, MR. COSGROVE, IF YOU AREN'T THE ONE WHO'S GOING

27

1 TO BE SORT OF THERAPEUTICALLY ANTAGONISTIC TO THE CITY
 2 OF VENTURA, WHO DO YOU THINK I'D LOOK TO? MS. JACOBSON
 3 FOR CITY OF OJAI?
 4 WHO'S GOING TO BE MOST ANTAGONISTIC TO CITY OF
 5 VENTURA IN TERMS OF WANTING TO HAVE ROBUST DISCOVERY AND
 6 NOT JUST ACCEPTING THEIR THEORY OF THE CASE SO THAT I
 7 FIGURE OUT WHAT THIS AXIS LOOKS LIKE?
 8 MR. COSGROVE: MY UNDERSTANDING FROM DISCUSSIONS THAT
 9 I HAVE BEEN PRIVY TO IS THAT MOST OF THE OPPOSITION IS
 10 LIKELY TO COME FROM OJAI, AND PARTICULARLY UPPER OJAI.
 11 THE COURT: AND IN THE CASE OF UPPER OJAI, A LOT OF
 12 SMALL SEPARATELY-REPRESENTED LANDOWNERS AND INDIVIDUALLY
 13 SELF-REPRESENTED PERSONS.
 14 MR. COSGROVE: YEAH, NOT LOVING THE TERM "PIPSQUEAK,"
 15 I WOULD SAY SMALLER PRODUCERS.
 16 THE COURT: MS. JACOBSON, ARE YOU THE TIP OF THE SPHERE,
 17 FUNCTIONALLY SPEAKING, IN TERMS OF HASHING OUT A DISCOVERY
 18 PLAN, OR DO YOU THINK THAT SOMEBODY ELSE IS THE MORE LIKELY
 19 SUSPECT?
 20 MS. JACOBSON: I'M NOT SURE I UNDERSTAND YOUR QUESTION.
 21 ARE YOU ASKING IF WE ARE GOING TO BE THE MOST I
 22 SUPPOSE AGGRESSIVE IN DETERMINING THE DISCOVERY DEADLINES?
 23 MAYBE IF YOU CAN STATE IT AGAIN.
 24 THE COURT: WELL, IF YOU INTEND TO HELP YOUR CLIENT
 25 PREPARE A FACTUALLY-ROBUST OPPOSITION TO THE CITY OF
 26 VENTURA'S GENERAL THRUST OF WHAT THEY'RE TRYING TO
 27 ACCOMPLISH IN THIS TRIAL, DOES THAT MEAN YOU ARE BETTER
 28 EQUIPPED THAN ANYBODY ELSE TO LEAD THE DISCUSSIONS

28

1 ABOUT HOW THE DISCOVERY OUGHT TO PROCEED? OR IF IT'S
 2 NOT YOU, WHO IS IT?
 3 I'M NOT TRYING TO PUT IT ON MR. WHITMAN OR
 4 MS. BLOSS. MR. COSGROVE IS HESITANT, AND HE DOESN'T HAVE
 5 CONTACT WITH UPPER OJAI, WHICH SEEMS TO BE ONE OF THE
 6 ISSUES, AND HE DOESN'T HAVE DIRECT CONTACT EVEN WITH THE
 7 LAND UNDER THE CITY OF OJAI.
 8 RIGHT, MR. COSGROVE?
 9 MR. COSGROVE: WE HAD SOME DISCUSSIONS PRELIMINARY
 10 WITH FOLKS IN OJAI, BUT NOTHING THAT'S MATERIAL TO REPORT,
 11 YOUR HONOR.
 12 THE COURT: SO MS. JACOBSON, IF NOT YOU, WHO?
 13 MS. JACOBSON: I SEE. WELL, I AM WILLING TO TAKE ON
 14 THAT ROLE. I'M NOT --
 15 THE COURT: I'M NOT ASKING YOU TO GO WRANGLE ALL THE
 16 SELF-REPRESENTED PEOPLE, I'M JUST TRYING TO SEE IF YOU
 17 LOGICALLY HAVE A CLIENT WHO WANTS TO ENGAGE IN A ROBUST
 18 DISCOVERY EFFORT BECAUSE THEY WANT TO BE READY TO FIGHT
 19 THE CITY OF VENTURA AT THE TIME OF TRIAL AND HOPEFULLY
 20 TO WIN.
 21 MS. JACOBSON: WELL, YOU KNOW, IDEALLY DISCOVERY
 22 WOULD BE VERY LIMITED IN SCOPE; RIGHT? IF YOU'RE LIMITING
 23 IT IN TERMS OF PHASE I ONLY, THEN IT SHOULDN'T BE A HUGE
 24 FIGHT. I MEAN, WE DON'T -- THERE IS NO DESIRE HERE TO DRAG
 25 ANYTHING OUT, WE WANT TO GET TO IT, AND FRANKLY THE QUESTION
 26 IS: SHOW US THE EVIDENCE, SHOW US THE CONNECTION.
 27 SO I WILL SPEARHEAD THAT EFFORT IN COORDINATING
 28 THE DISCUSSIONS, BUT WHAT WE'D REALLY LIKE IS TO HAVE

29

1 DEADLINES FOR THAT EVIDENCE TO BE PRODUCED TO EVERYONE, TO
 2 ALL THE PARTIES IN THE CASE, THAT WILL BENEFIT EVERYONE,
 3 ESPECIALLY THOSE IN THE UPPER OJAI AND OJAI BASIN WHO
 4 CONTEND THERE IS NO EVIDENCE.
 5 THE COURT: THANK YOU, MS. JACOBSON.
 6 I SEE MR. HAGERTY HAS RISEN TO HIS FEET, SO I
 7 HAVE A SENSE YOU WANT TO SAY SOMETHING.
 8 MR. HAGERTY: YES, YOUR HONOR. IF I MAY.
 9 I MEAN, WE'LL COMMIT TO ORGANIZING A MEET AND
 10 CONFER AS QUICKLY AS POSSIBLE. AND MS. JACOBSON AND
 11 OTHERS HAVE PARTICIPATED ROBUSTLY IN THOSE DISCUSSIONS.
 12 I DON'T HAVE ANY CONCERN ABOUT GETTING TO A
 13 SCHEDULE THAT MAKES SENSE, AT LEAST WITH AN INITIAL TRIAL
 14 DATE IN FEBRUARY, AND OBVIOUSLY THINGS CHANGE AND WE'LL
 15 ADJUST AS WE FORWARD. BUT I THINK THE CONCERN IS ACTUALLY
 16 JUST GETTING A DATE SO WE CAN GET THE SCHEDULE IN PLACE
 17 TO START MOVING THE PROCESS FORWARD.
 18 AND IT WILL BE PRIMARILY AN EXPERT-DRIVEN EFFORT,
 19 YOUR HONOR. SO WE'RE NOT -- I MEAN, WE'LL RESPOND TO ANY
 20 DISCOVERY THAT'S PROMULGATED, BUT IT'S MOSTLY AN EXPERT
 21 EXERCISE. WE'RE GOING TO GET INFORMATION FROM THE STATE
 22 IN TERMS OF THEIR MODEL, AND WE HAVE EXPERTS OTHER THAN --
 23 THE COURT: WELL, THEY'VE PLAYED HARD TO GET FOR SO
 24 LONG. YOU KNOW, QUOTING VOLTAIRE.
 25 MR. HAGERTY: I DID SEE THAT, YOUR HONOR. THAT WAS
 26 GREAT. BUT NO, I THINK THE STATE IS --
 27 THE COURT: I'VE GOT A BUNCH OF ACADEMIC WATER
 28 RESEARCHERS APPARENTLY WHO WANT TO GIVE ME A GOOD WINNING

30

1 THESIS TO GET THEIR PH.D. WHERE WE JUST NEED SOMETHING
 2 WORKABLE TO TRY TO ADJUDICATE SOMETHING IN A TIMELY FASHION.
 3 MR. HAGERTY: YES. AND I DON'T HAVE A DOUBT THAT WE
 4 WILL GET THERE. I KNOW THEIR CONCERNS, AND WE'LL WORK
 5 THE PARTIES AS WE HAVE THROUGHOUT.
 6 SO I MEAN, I THINK THAT IT'S --
 7 THE COURT: WHEN ARE YOU PREPARED TO SHOW WHAT YOU
 8 ALREADY HAVE TO SHOW THE INTERCONNECTEDNESS OF THE SURFACE
 9 WATER AND THE GROUNDWATER AND/OR THE INTERCONNECTEDNESS OF
 10 THE UPPER OJAI GROUNDWATER BASIN AND THOSE OTHER GROUNDWATER
 11 BASINS CLOSER TO THE CITY OF VENTURA'S WELLS?
 12 MR. HAGERTY: WELL, WE'VE ALREADY PROVIDED PEOPLE
 13 WITH LISTS OF EXISTING DOCUMENTS THAT HAVE REPEATEDLY
 14 DEMONSTRATED THAT CONNECTION, BUT OUR EXPERT REPORT WILL
 15 BE EXCHANGED WHEN WE WORK OUT THE EXPERT REPORT EXCHANGE
 16 DATE.
 17 AND WE HEAR, AND WE'VE HEARD REPEATEDLY, THAT
 18 PEOPLE WANT THAT, BUT OBVIOUSLY THERE'S GOING TO BE A
 19 PROCESS, AND THAT'S WHAT WE NEED TO WORK OUT, YOUR HONOR.
 20 I MEAN, THERE IS A SIGNIFICANT AMOUNT OF EXISTING
 21 EVIDENCE TO DEMONSTRATE CONNECTIVITY. WE'VE GIVEN PEOPLE
 22 LISTS OF THOSE REPORTS, AND WE'RE HAPPY TO GIVE THEM AGAIN.
 23 THAT WILL BE PART OF THE DISCOVERY, CLEARLY.
 24 BUT IN TERMS OF --
 25 THE COURT: WOULD YOU BE KIND ENOUGH TO SERVE ON
 26 FILE & SERVEXPRESS BY THIS FRIDAY A DOCUMENT IN SUITABLE
 27 FORM FOR FILING, AND THEN FILE IT WITH THE CLERK OF THE
 28 COURT, WHICH LISTS WHAT YOU CONSIDER TO BE THE 10 OR 20

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1 MOST IMPORTANT DOCUMENTS WHICH DEMONSTRATE THE
 2 INTERCONNECTEDNESS OF THE SURFACE WATER AND THE GROUNDWATER
 3 AND THE INTERCONNECTEDNESS OF THE EAST OJAI WATER BASIN
 4 WITH THE OTHER WATER BASINS, SO THAT PEOPLE LIKE MR. WHITMAN
 5 AND MS. BLOSS WHO MAY WONDER -- AND FOR THAT MATTER
 6 MS. JACOBSON -- YOU KNOW, WHAT THE CORE OF VENTURA'S CASE
 7 IS ABOUT, AT LEAST ARE GIVEN THE BEST OF SORT OF THE
 8 READER'S DIGEST ABRIDGED VERSION OF YOUR PROOF?
 9 MR. HAGERTY: SURE. WITHOUT PREJUDICE TO OUR EXPERT
 10 REPORT, WE'RE HAPPY TO POST A LIST OF --
 11 THE COURT: YOU DON'T NEED TO GO TO 20, STOP AT 10.
 12 BUT SOMEWHERE 10 AND 20 IF THERE'S OTHER GOODIES.
 13 MR. HAGERTY: WE'LL PROVIDE A COMPLETE LIST.
 14 THE COURT: BUT I DON'T WANT YOU TO PROVIDE 532. I'M
 15 ASKING YOU TO SHORTEN THE LIST SO THAT YOU DO THE BEST OF.
 16 SOMEWHERE IN THE RANGE OF 10 TO 20. AND THEN GIVE THEM
 17 LINKS TO THE DOCUMENTS.
 18 MR. HAGERTY: YEAH, WE'RE HAPPY TO DO THAT, YOUR HONOR.
 19 THE COURT: THANK YOU.
 20 OKAY. WELL, SO FAR, THEN, I'M INCLINED TO TRY TO
 21 PICK A FEBRUARY TRIAL DATE. I'VE GOT A DRUG CASE THAT HAS
 22 RESISTED ALL NATURAL TENDENCIES TO TRY TO GET IT TO SETTLE,
 23 HOMEOPATHIC DRUGS AS IT HAPPENS, BUT STILL A DRUG OF A
 24 PASSION, THAT'S GOT BELLWETHERS SET FOR TRIAL IN FEBRUARY
 25 IN MY COURTROOM ON FEBRUARY 3.
 26 IT IS GETTING OLD, AND IN MANY WAYS IT OUGHT TO
 27 GO. BUT LIKE A LOT OF LITIGATION CAN I GUARANTEE IT WILL
 28 GO ON FEBRUARY 3RD AND GET DONE IN THREE WEEKS? THAT'S A

32

1 QUESTION.
 2 THE DEFENDANT IS CALLED HYLANDS, H-Y-L-A-N-D-S,
 3 FOR YOUR REFERENCE.
 4 THEN I HAVE A LEGAL MALPRACTICE CASE PHASE II SET
 5 TO START TRIAL ON FEBRUARY 14. THEY TOLD ME RELATIVE TO A
 6 STATUS CONFERENCE TOMORROW THAT THEY'RE HOPING TO SET UP A
 7 NEW ATTEMPT AT MEDIATION, AND MY GUT TELLS ME THE ODDS OF
 8 THAT CASE IS GOING TO GO TO TRIAL ON FEBRUARY 14 ARE PRETTY
 9 UNLIKELY.
 10 AND I HAVE ONE OF MY REMAINING RISPERDAL
 11 COORDINATED PROCEEDING TRIALS SET FOR FEBRUARY 22, AND
 12 THE ODDS OF THAT ACTUALLY GOING TO GO TO TRIAL ON FEBRUARY
 13 22 I'D PUT AT MUCH LESS THAN 20 PERCENT.
 14 SO I'VE WARNED YOU WHAT ELSE IS IN FRONT OF YOU,
 15 BUT WITH THAT SAID I'M HAPPY TO GIVE YOU A FEBRUARY TRIAL
 16 DATE.
 17 MAYBE I SHOULD SET YOU FOR FEBRUARY 1 SO YOU GET
 18 IN FRONT OF THE HYLANDS CASE, OR I CAN SET YOU DOWN IN
 19 LIKE FEBRUARY 14, HOPING THAT THE HYLANDS CASE DOESN'T GO,
 20 SETTLES, OR GETS DELAYED JUST ENOUGH THAT I'VE GOT A CLEAR
 21 PATH.
 22 BUT IF I PUT YOU DOWN FOR FEBRUARY 1, THERE'S
 23 NOTHING OF CONSEQUENCE IN FRONT OF YOU BETWEEN NOW AND
 24 THEN. YOU WOULD BE HIGHLY LIKELY TO START, FOR LACK OF
 25 COMPETITION.
 26 MS. JACOBSON: YOUR HONOR?
 27 THE COURT: SPEAK UP ON THE LACOURTCONNECT. NAME?
 28 MS. JACOBSON: HOLLY JACOBSON, CITY OF OJAI.

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1 THE COURT: WELCOME BACK.
 2 MS. JACOBSON: THANK YOU.
 3 I HATE TO BE A STICK IN THE MUD. I HAVE A TRIAL
 4 AT THE END OF JANUARY, AND IN THE EVENT THAT GOES FORWARD
 5 AND GOES AS LONG AS IT'S ANTICIPATED TO GO, THE FEBRUARY
 6 1ST TRIAL DATE WILL NOT WORK FOR ME.
 7 THE COURT: WOULD FEBRUARY 14 WORK FOR YOU, MA'AM?
 8 MS. JACOBSON: YES.
 9 THE COURT: OTHERS WANT TO BE HEARD AS TO WHETHER
 10 FEBRUARY 14 IS A GOOD OR BAD DATE FOR TRIAL?
 11 MR. PATTERSON: EXCUSE ME, YOUR HONOR. THIS IS GREG
 12 PATTERSON ON BEHALF OF THE EAST OJAI GROUP.
 13 I'M FINE WITH FEBRUARY 14TH. YOU KNOW, THE
 14 CITY AND THE CITY'S COUNSEL HAS BEEN -- YOU KNOW, WHILE
 15 REPRESENTING THEIR CLIENT'S INTERESTS VIGOROUSLY, HAS BEEN
 16 WILLING TO HAVE DISCUSSIONS, AND I THINK, YOU KNOW, WE
 17 SHOULD TRY TO GET A MEET AND CONFER WITHIN THE NEXT WEEK
 18 OR SO TO TALK ABOUT THE SCHEDULE, AND THEN PERHAPS AT THE
 19 NEXT STATUS CONFERENCE IF THERE ARE SIGNIFICANT ISSUES
 20 THAT HAVEN'T BEEN RESOLVED WE CAN DISCUSS THEM AND REVISIT
 21 THE TRIAL DATE.
 22 ON BEHALF OF MY CLIENTS, MANY OF WHOM GROW CITRUS,
 23 I OBJECT TO THE REPRESENTATION THAT GROWING CITRUS IS NOT
 24 A REASONABLE AND BENEFICIAL USE OF WATER IN THE OJAI BASIN.
 25 THAT'S JUST AN ASIDE.
 26 BUT YOU'VE GOT AN UNUSUAL SITUATION HERE, YOUR
 27 HONOR, IN THAT YOU HAVE SOME OF THE, YOU KNOW, BIGGER,
 28 YOU KNOW, LAW FIRMS AND WATER LAWYER EXPERIENCE PROBABLY

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1 IN THE STATE AND THEN YOU HAVE A WHOLE BUNCH OF PEOPLE
 2 THAT CAN'T AFFORD THOSE LAWYERS AND HAVE TO PROTECT THEIR
 3 WATER INTERESTS.
 4 AND SO I'LL BE HAPPY TO ALSO HELP ON BEHALF OF MY
 5 CLIENTS, WHO ARE SOME OF THE LARGER RANCHING OUTFITS IN
 6 OJAI, TO ASSIST WITH TRYING TO GET SOME SORT OF DISCOVERY
 7 PLAN IN PLACE.
 8 THE COURT: MR. PATTERSON, OUR NOTES SHOW FOR
 9 REGISTERING FOR TODAY YOU ALSO HAVE THE THACHER SCHOOL AS
 10 A CLIENT?
 11 MR. PATTERSON: YES.
 12 THE COURT: AND THEY'RE A RELATIVELY LARGE CONSUMPTIVE
 13 USER, TO MY UNDERSTANDING, TRUE?
 14 MR. PATTERSON: THEY'RE FAIRLY LARGE, YOUR HONOR.
 15 AND THEN THERE'S A WHOLE SERIES OF AGRICULTURAL INTERESTS
 16 OF VARYING SIZES, BUT SOME OF THE LARGER AGRICULTURAL
 17 INTERESTS IN THE AREA THAT THEY'RE LOCATED, THE EAST OJAI
 18 AREA, WHAT WE CALL THE EAST OJAI AREA.
 19 THE COURT: SO IF PEOPLE LIKE MR. WHITMAN AND MS. BLOSS,
 20 OR BLISS, WISH TO FIND SOMEBODY WITH WHOM TO TRY TO ALIGN,
 21 IT SOUNDS LIKE YOU, MR. PATTERSON, HAVE GOT SOME OF THE
 22 CLIENTS WHO CAN AFFORD TO PUT SOME MUSCLE ON THE PLATE.
 23 MR. PATTERSON: HAPPY TO DISCUSS THAT WITH THEM.
 24 AND, YOU KNOW, OUR GROUP DOES INTEND TO VIGOROUSLY
 25 ADDRESS THE ISSUE AS TO THE CONNECTIVITY BETWEEN SOME OF THE
 26 GROUNDWATER PUMPING AND THE SURFACE WATER USE. I'VE SEEN A
 27 LOT OF THE DOCUMENTS AND, YOU KNOW, THERE'S A LOT OF ISSUES
 28 THAT NEED TO BE DEALT WITH IN A MORE SPECIFIC FASHION

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1 RELATED TO THESE BASINS. SO THAT'S JUST MY TWO CENTS
 2 ABOUT IT.
 3 AND I AM HOPEFUL, AND I UNDERSTAND THE COURT'S
 4 AND THE CITY'S POSITION TO TRY TO MOVE -- AND EVERYBODY'S
 5 POSITION TO TRY TO MOVE THIS FORWARD AS QUICKLY AS POSSIBLE.
 6 I STILL THINK IT'S FAIRLY AMBITIOUS SCHEDULE, BUT WE'LL DO
 7 WHAT WE CAN.
 8 THE COURT: I KNOW IT'S AMBITIOUS. BUT NOTHING
 9 VENTURED, NOTHING GAINED. SO THAT'S WHY I'M WILLING TO
 10 BE ADVENTUROUS.
 11 WHO IF ANYBODY ELSE THINKS THEY'RE GOING TO BE
 12 IMPORTANT AT THE TIME OF TRIAL OF PHASE I WHO WANTS TO
 13 BE HEARD TO SAY WHY I SHOULD NOT SET A TRIAL FOR FEBRUARY
 14 14TH?
 15 MR. BLATZ: YOUR HONOR, RYAN BLATZ APPEARING,
 16 REPRESENTING A NUMBER OF STIPULATED PARTIES AS WELL AS
 17 OTHER PARTIES.
 18 THE COURT: GO AHEAD, SIR.
 19 MR. BLATZ: WELL, I AM THE SELF-PROCLAIMED KING OF
 20 THE PIPSQUEAKS, YOUR HONOR, AND MY SIGNIFICANT NUMBER
 21 OF STIPULATED CLIENTS ALSO, JUST BASED ON YOUR TENTATIVE
 22 RULING ABOUT NEEDING TO DO INITIAL DISCLOSURES, ALMOST
 23 ALL STIPULATED PARTIES ARE DE MINIMIS USERS.
 24 DEPENDING ON WHETHER THAT'S GOING TO BE AN
 25 ENDEAVOR THAT IS NEEDED TO TAKE ON IS SIGNIFICANTLY
 26 STRAINED, JUST THE CAPABILITIES OF GETTING PREPARED
 27 FOR EVERYTHING OVER THE NEAR TIMELINE, BECAUSE THAT IS
 28 NOT SOMETHING THAT HAS BEEN ANTICIPATED PREVIOUSLY.

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1 I'VE SPENT THE LAST COUPLE OF YEARS WORKING
 2 DIRECTLY WITH VENTURA, ESPECIALLY TRYING TO REPRESENT
 3 THE SMALLER USERS AND FIND A WAY TO MAKE THIS EASIER
 4 AND MORE EFFICIENT FOR THEM AND COST EFFECTIVE. AND IF
 5 THERE'S INITIAL DISCLOSURES THAT ARE GOING TO NEED TO BE
 6 DONE FOR SOMEWHERE BETWEEN 80 AND 100 DIFFERENT STIPULATED
 7 CLIENTS, IT IS GOING TO SIGNIFICANTLY BURDEN THEIR INTERESTS
 8 AS WELL AS SOME OF THE OTHER CLIENTS THAT I REPRESENT.
 9 AND, OF COURSE ON TOP OF THAT, YOUR HONOR, HALF
 10 OF THE OTHER FIRM I WAS WORKING WITH WITH MY FATHER, HE
 11 PASSED AWAY, AND SO WE'RE A MAN DOWN ON THAT FRONT.
 12 GIVEN THAT FEBRUARY IS A WAYS AWAY BUT NOT SO
 13 FAR AWAY, THE ONE THING THAT A LOT OF THE SMALL USERS
 14 IN ALL OF THE DIFFERENT BASINS WOULD HOPE IS THAT THE
 15 CONTINUING NEGOTIATIONS BETWEEN CASITAS AND THE CITY CAN
 16 GET FURTHER ALONG AS FAR AS THE DEVELOPMENT OF THE PHYSICAL
 17 SOLUTION OR WHATEVER AMENDMENTS MIGHT NEED TO HAPPEN.
 18 THAT BROKE DOWN IN THE MIDDLE OF COVID.
 19 SO, YOU KNOW, WHAT THERE MAY BE IS THERE MAY BE
 20 AN UPDATED PHYSICAL SOLUTION AT SOME POINT, WE DON'T KNOW
 21 THAT FOR SURE, BUT WE JUST HEARD FROM MR. COSGROVE THAT
 22 THEIR BOARD WANTS TO COME BACK WITH SOME MODIFICATIONS.
 23 THAT MAY NEED TO BE REVIEWED IN THE CONTEXT OF THE TERM
 24 OF ALL OF THIS TO DETERMINE WHETHER PEOPLE ARE WILLING
 25 TO SIGN ON TO IT, BECAUSE ALL THESE VERY COMPLICATED
 26 INTERCONNECTIVITY AND HYDROLOGY ISSUES MAY BE ABLE TO BE
 27 NEUTRALIZED BY A PHYSICAL SOLUTION THAT HAS ENOUGH, YOU
 28 KNOW, SUPPORT TO BE REALLY SOMETHING ROBUST ENOUGH THAT

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1 MIGHT BE A MUCH MORE ACCEPTABLE SOLUTION THAN ADJUDICATING
 2 FOUR DIFFERENT BASINS WITH ALL OF THESE DIFFERENT VERY
 3 TECHNICAL AND VERY SCIENTIFIC PROBLEMS THAT ARE GOING TO
 4 OCCUR OVER THE DIFFERENT GEOGRAPHICAL AREAS AND MASSIVE
 5 CHANGES AND DIFFERENCES IN HYDROLOGY AND HOW THEY'RE ALL
 6 INTERCONNECTED OR NOT TO IMPACT A REMOTE PROBLEM OF FLOW
 7 OF RIVER VERSUS IT JUST BEING A PURE EDUCATION WHERE WE'RE
 8 TALKING ABOUT A STATED OVERDRAFT AND INTRODUCE WATER USAGE
 9 TO MAKE UP FOR THAT.
 10 ALL OF THE DIFFERENT BASINS, IF THEY ARE CONNECTED,
 11 AT BEST ARE GOING TO HAVE MUCH DIFFERENT AMOUNTS OF
 12 INTERCONNECTIVITY THAT STILL MAY NEED TO GET FIGURED OUT IN
 13 SPITE OF ALL THAT, WHERE A PHYSICAL SOLUTION OF SOME SORT
 14 MAY BE ABLE TO, YOU KNOW, REALLY CHANGE ALL THAT AND MAKE
 15 IT MUCH MORE FUNCTIONAL FOR, YOU KNOW, A ONE-SIZE-FITS-ALL
 16 APPROACH OR AT LEAST SOME OBLIGATION TO MAKE ALL OF THAT
 17 DIFFICULT SCIENCE INTERPRETATION, WELL, SOMETHING THAT WORKS
 18 A LOT BETTER THAN JUST PUNISHING EVERYBODY BY TELLING THEM
 19 HOW MUCH WATER THEY CAN'T USE ANYMORE VERSUS TRYING TO DO
 20 SOMETHING PHYSICALLY TO IMPROVE THE AMOUNT OF WATER THAT
 21 GETS DOWNRIVER.
 22 SO I DO THINK THE FEBRUARY DATE IS A LITTLE
 23 AGGRESSIVE. I THINK IT'S GOING TO BE DIFFICULT TO TRY AND
 24 HAVE ROBUST NEGOTIATIONS AND DISCUSSIONS AS WELL AS WORKING
 25 WITH ALL THE NUMBER OF CLIENTS IN BETWEEN NOW AND THEN.
 26 AND I WOULD HOPE THAT, YOU KNOW, IF WE SEE SOMETHING THAT
 27 MAYBE CHANGES THE PHYSICAL SOLUTION, THERE MAY BE SOME
 28 INTEREST IN SOME OF THE PARTIES, WHICH ARE A SIGNIFICANT

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1 NUMBER OF SOME OF THE PARTIES THAT I REPRESENT, WOULD
 2 LIKE TO SEE A PHYSICAL SOLUTION DIALED IN A LITTLE MORE
 3 APPROPRIATELY, THAT COULD WORK.
 4 THE COURT: SO A COUPLE OF POINTS, MR. BLATZ, BY THE
 5 COURT IN RESPONSE.
 6 ONE, WHILE IT SEEMS INTELLECTUALLY NECESSARY TO
 7 GET INITIAL DISCLOSURES FROM EVERYBODY WHO HAS ANY WATER
 8 USAGE IN THE AREA, I WOULD BE OPEN TO HAVING A DECLARATION
 9 FROM YOU OR SOMEBODY ELSE THAT TRIES TO EXPLAIN TO ME WHY
 10 FOR SOMEBODY WITH A WELL WHO TAKES, YOU KNOW, 800 GALLONS
 11 A YEAR OR AN EIGHTH OF AN ACRE FOOT A YEAR OR WHATEVER
 12 IT IS, FILLING OUT INITIAL DISCLOSURES IS SUCH A BLOODY
 13 NUISANCE THAT IT'S GOING TO HAVE AN IMPACT ON THE ABILITY
 14 TO MOVE THE CASE FORWARD, AND I'D BE WILLING TO BE EDUCATED
 15 ABOUT THAT BEFORE I SAID, OH, I WANT YOU TO DO IT ALL.
 16 I'M HERE.
 17 NOW, MAYBE I'M NOT AS PERFECT AS THE ENEMY OF
 18 THE GOOD BECAUSE I'M SCRATCHING AROUND FOR A DATE OF NO
 19 MEANINGFUL VALUE BECAUSE IT SEEMS TO BE USEFUL, BUT AT
 20 THE END OF THE DAY I LEARN LATER: OH, THAT DIDN'T GET --
 21 CAN'T DO ANYTHING.
 22 AND THEN A DIFFERENT QUESTION TO YOU, MR. BLATZ,
 23 AND TO SOME EXTENT MR. COSGROVE, AND THEN I'LL LET OTHERS
 24 VOLUNTEER, INCLUDING MR. HAGERTY AND MR. PISANO, BUT HOW
 25 DO I LEAN ON THESE PARTIES, OTHER THAN LIFTING THE STAY ON
 26 DISCOVERY AND SETTING A PHASE I TRIAL, TO TRY TO LEAN IN
 27 ON THE MOST IMPORTANT PEOPLE TO STIMULATE SETTLEMENT TALKS
 28 TO BE A LITTLE MORE ROBUST SO THAT THEY COME TO FRUITION?

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1 SO I'LL LET YOU DEAL WITH THAT. YOU CAN COMMENT
 2 ON THE FIRST POINT, MR. BLATZ, ABOUT WHAT KIND OF A BLOODY
 3 NUISANCE IT IS TO FILL OUT THESE INITIAL DISCLOSURES, AND
 4 THEN MOVE TO MY QUESTION ABOUT HOW DO I STIMULATE RENEWED
 5 SETTLEMENT EFFORTS.
 6 MR. BLATZ: THANK YOU, YOUR HONOR.
 7 WELL, FIRST OF ALL, ON THE FIRST QUESTION, EVEN
 8 IF ALL -- THERE'S ROUGHLY I WOULD SAY APPROXIMATELY 100
 9 STIPULATED PARTIES IN THIS CASE. ALL THE PARTIES WHO HAVE
 10 STIPULATED THROUGH ME HAVE ALL STIPULATED THROUGH THEIR
 11 STIPULATION THAT THEY'RE DE MINIMIS USERS UNDER FIVE ACRE
 12 FEET.
 13 IF WE ASSUME ALL OF THEM ARE EXACTLY AT FIVE,
 14 WHICH IS CLEARLY NOT THE CASE, A SIGNIFICANT NUMBER OF THEM
 15 ARE AT ZERO, A NUMBER OF THEM ARE, YOU KNOW, SIGNIFICANTLY
 16 LOWER THAN THE FIVE ACRE FEET PER YEAR, BUT EVEN IF ALL OF
 17 THEM COLLECTIVELY USED FIVE ACRE FEET, WE'RE ONLY TALKING
 18 ABOUT 500 ACRE FEET OF WATER CUMULATIVELY, WHICH IS NOT
 19 REALLY THAT SIGNIFICANT IN THE GENERAL CONTEXT OF WHAT'S
 20 GOING ON IN THIS CASE, ESPECIALLY WHEN INTERACTING WITH
 21 THE DIFFERENT BASINS AND HOW, IF THEY ARE INTERCONNECTED,
 22 HOW MUCH THEY'RE INTERCONNECTED. BECAUSE THAT IS A WHOLE
 23 SECONDARY KIND OF QUESTION THAT INTERCONNECTIVITY IS NOT
 24 NECESSARILY A LIGHT SWITCH OF BEING A YES OR A NO, BUT HOW
 25 CONNECTED THEY ARE.
 26 SO IF WE TAKE THE IDEA OF 500 ACRE FEET TOTAL
 27 FROM ALL OF THESE COLLECTIVE STIPULATED PARTIES, AND THEN
 28 UNDERSTAND THAT, ONE, THEY'RE NOT AT AN AVERAGE OF FIVE, AND

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1 TWO, THE AMOUNT THAT THEY USE ISN'T NECESSARILY PROPORTIONAL
 2 TO THE AMOUNT OF WATER THAT WOULD GET DOWNRIVER TO WHERE
 3 IT'S NEEDED FOR ADDITIONAL FLOW WHERE CHANNELKEEPER POINTED
 4 THIS CASE AT, THEN YOU'RE -- THEN I DON'T THINK THERE'S A
 5 MATERIAL NEED TO HAVE ALL THAT. OR FOR ALL OF OUR MODELING
 6 WE COULD ASSUME IT'S 500 ACRE FEET FROM THIS LIMITED AMOUNT
 7 OF STIPULATED PARTIES AND WOULD THAT ACTUALLY MAKE ANY
 8 DIFFERENCE DEPENDING ON WHICH DIRECTION THIS CASE ENDS UP
 9 GOING.
 10 IF IT WAS IN A PURE ADJUDICATION STANCE, WOULD IT
 11 MAKE MUCH DIFFERENCE? WELL, THEN WHAT'S THE POINT OF MAKING
 12 THEM DE MINIMIS USERS IF THEY STILL HAVE TO PARTICIPATE.
 13 AND IF IT'S IN A PHYSICAL SOLUTION SENSE, THEN
 14 THE PHYSICAL SOLUTION ARGUMENT PROPOSES IN ITSELF, WHAT I'M
 15 STATING HERE, YOUR HONOR, IS IT TAKES THE DE MINIMIS USERS
 16 UNDER FIVE ACRE FOOT PER YEAR AND ONLY REQUIRES THEM TO
 17 FILE -- NOT REQUIRED TO DO ANY FINANCIAL CONTRIBUTION BUT
 18 JUST FILE KIND OF A REPORT ABOUT, YOU KNOW, WHAT THEIR,
 19 YOU KNOW, WATER USAGE IS DOWN THE ROAD, SO THAT IF THERE
 20 IS A PHYSICAL SOLUTION, THAT IT CAN BE MONITORED WHAT
 21 THEY'RE DOING AND ENSURING THAT THEY'RE UNDER THAT
 22 DE MINIMIS AMOUNT.
 23 SO, I DON'T SEE A REALISTIC NECESSITY OF THEIR
 24 DATA TO MAKE ANY OF THE MORE IMPORTANT DETERMINATIONS THAT
 25 ARE GOING TO HAPPEN IN THIS CASE.
 26 RESPECTING THAT, THERE MAY BE PARTIES I DON'T
 27 REPRESENT WHO POSSIBLY ARE ABOVE DE MINIMIS AND STIPULATED.
 28 BUT I CAN TELL YOUR HONOR THAT NONE OF THE PARTIES, AND IT'S

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1 80 SOMETHING STIPULATIONS, NONE OF THEM ARE OVER DE MINIMIS
 2 WHO I HAVE ADVISED TO FILE AND HAVE FILED THOSE STIPULATIONS
 3 FOR.
 4 THE COURT: HOW DO I RUN THE CALCULATION REQUIRED BY
 5 CODE OF CIVIL PROCEDURE SECTION 850(B) TO DETERMINE WHETHER
 6 ONE OF THESE STIPULATING PARTIES IS A GROUNDWATER EXTRACTOR
 7 WHO SUPPORTS THE PHYSICAL SOLUTION?
 8 ABSENT AN INITIAL DISCLOSURE, THEY MAY USE FIVE
 9 ACRE FEET, A HALF AN ACRE FEET OR ZERO ACRE FEET. AND
 10 IF IT'S ZERO IT'S DIFFERENT THAN IF THEY USE HALF AN ACRE
 11 FEET.
 12 MR. BLATZ: WELL, YOUR HONOR, MY UNDERSTANDING HAS
 13 ALWAYS BEEN FROM THE BEGINNING, AND FROM SIGNIFICANT
 14 CONVERSATIONS WITH THE CITY OF VENTURA, THAT THAT WAS NOT
 15 GOING TO BE NECESSARILY FOR THE DE MINIMIS USERS, IN THAT
 16 THE PHYSICAL SOLUTION OR ANY OTHER JUDGMENT IN THIS CASE
 17 WAS NOT GOING TO REQUIRE THE DE MINIMIS USERS TO HAVE TO
 18 PROVIDE INITIAL DISCLOSURES. AS LONG AS THEY WERE UNDER
 19 FIVE ACRE FEET THEY WERE -- YOU KNOW, THERE WAS NOT GOING
 20 TO BE THAT LEVEL OF MINUTE DETAIL.
 21 I WOULD SUPPOSE THAT THE OPPORTUNITY WOULD BE TO
 22 POTENTIALLY AGREE THAT THEY'RE ALL -- YOU KNOW, THAT ALL
 23 THOSE PARTIES ARE USING FIVE ACRE FEET, AND I MEAN, IF THEY
 24 ALL USED FIVE ACRE FEET AND WE HAD A 500 ACRE FEET TOTAL,
 25 WOULD IT MAKE A MATERIAL DIFFERENCE IN DETERMINING ANY OF
 26 THOSE ISSUES.
 27 AND UNDER THAT PARTICULAR CODE SECTION, YOUR HONOR,
 28 I'M NOT READILY FAMILIAR WITH WHAT IT IS, I BELIEVE THAT HAS

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1 TO DO WITH THE CUMULATIVE AMOUNT OF THEIR USAGE AS FAR AS
 2 FOR PURPOSES OF WHETHER THEY SUPPORT THE PHYSICAL SOLUTION,
 3 BUT I'M NOT ENTIRELY SURE.
 4 THE COURT: WELL, THEN YOU'VE GOT TO SEPARATELY SEE
 5 IF YOU'VE GOT 75 PERCENT OF THE CONSUMPTIVE USERS LIKE THE
 6 PHYSICAL SOLUTION AS OPPOSED TO 50 PERCENT OF ANY TAKER.
 7 SO THEY'RE TWO DIFFERENT TESTS. 50 PERCENT OF ALL
 8 OF THE TAKERS -- BIG, SMALL, AND IN BETWEEN -- BUT THEN
 9 IT'S ALSO GOT TO BE WHEN YOU COUNT THE QUANTITY OF THE TAKE,
 10 75 PERCENT OF THE TAKE HAS TO SUPPORT THE PHYSICAL SOLUTION
 11 EVEN IF THAT HAPPENS TO BE JUST ONE OR TWO USERS WHO TAKE
 12 THE LION'S SHARE OF THE AVAILABLE WATER.
 13 BUT THE FIRST TEST, THEORETICALLY WE NEED TO KNOW
 14 WHETHER THEY COUNT THE ENUMERATOR OR THE DENOMINATOR.
 15 MR. HAGERTY OR MR. PISANO, HAVE YOU GOT ANY
 16 SENTIMENTS OF HOW 850(B) WOULD JUST MAKE SOME ASSUMPTIONS?
 17 MR. HAGERTY: NO. NO, YOU DON'T YOUR HONOR. I MEAN,
 18 THAT'S SOMETHING WHEN WE GET TO THAT POINT, 850(B), IF
 19 THE PROPOSING PARTIES SEEK TO ASK THE COURT TO CONSIDER THE
 20 PHYSICAL SOLUTION UNDER 850(B), WHICH IS SOMETHING WE WILL
 21 FIGHT ABOUT BECAUSE WE DON'T THINK THAT HAS TO HAPPEN, THERE
 22 IS 850(A) AS WELL --
 23 THE COURT: AND YOU'VE GOT A DIFFERENT BURDEN OF PROOF.
 24 MR. HAGERTY: THAT'S EXACTLY RIGHT. AND THAT'S THE
 25 ISSUE, AND WE AGREE WITH THE COURT COMPLETELY ON THAT POINT.
 26 BUT AS TO 850(B), IF WE WERE TO PURSUE THAT, IT'S
 27 OUR BURDEN TO SHOW THAT WE WOULD NEED THOSE THRESHOLDS.
 28 OUR POSITION IS WE DON'T THINK THAT IT IS WORTH

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1 THE PARTIES' TIME WHO ARE DE MINIMIS TO DO THE INITIAL
 2 DISCLOSURE.
 3 THE COURT: AND SO FAR IT'S JUST THE STATE AND
 4 HIGHBERGER WHO THINK DEMANDING THE PERFECT IS WHAT OUGHT
 5 TO BE DONE?
 6 MR. HAGERTY: I THINK THOSE ARE THE TWO, THE ONE PARTY
 7 AND THE COURT, YOUR HONOR, WHO ARE FOCUSED ON THAT ISSUE.
 8 THE COURT: WELL, LET ME HEAR FROM MR. MELNICK, BECAUSE
 9 MAYBE I AM CHASING THE PERFECT IN LIEU OF THE GOOD. AND
 10 FOR THESE PURPOSES I'M A FAN OF THE GOOD.
 11 MR. MELNICK: I GUESS, YOUR HONOR, I THINK YOU'VE
 12 HONED IN ON THE KEY ISSUE, WHICH IS THAT WE NEED TO KNOW
 13 WHETHER THESE DE MINIMIS USERS ARE PUMPING OR NOT PUMPING.
 14 AND WE DISAGREE WITH MR. HAGERTY THAT 850(B) IS
 15 OPTIONAL. WE THINK IT APPLIES AND HE'S GOT TO FOLLOW IT.
 16 SO, WE DON'T -- AND ALSO, YOUR HONOR, A NUMBER
 17 OF SMALL USERS HAVE ALREADY FILED INITIAL DISCLOSURES.
 18 OR SERVED INITIAL DISCLOSURES. IT'S NOT I THINK THAT
 19 HARD TO DO. AND IT'S NOT EVEN -- ESPECIALLY IF YOU HAVE
 20 NO WATER.
 21 THE COURT: DO YOU DO MONTHLY TAKES OR YEAR-BY-YEAR
 22 TAKES? HOW SUPER PRECISE IS THE DATA SUPPOSED TO BE?
 23 MR. MELNICK: WELL, YOU CAN ONLY PROVIDE THE DATA AS
 24 YOU HAVE IT. RIGHT? SO IF NOBODY'S BEEN COUNTING, THEN
 25 THAT'S WHAT THEY HAVE TO SAY, IS: I'VE TAKEN A DE MINIMIS
 26 AMOUNT AND I DON'T KNOW.
 27 THE COURT: ARE YOU OBLIGATED TO PUT A METER ON YOUR
 28 OWN WELL --

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1 MR. MELNICK: NO.
 2 THE COURT: -- OR CAN YOU JUST HAVE A WELL AND A PUMP
 3 AND TAKE WHAT COMES?
 4 MR. MELNICK: WELL, I THINK IT DEPENDS WHERE YOU ARE
 5 IN THIS BASIN, YOUR HONOR.
 6 BUT -- SO WE'RE NOT TRYING TO TELL PEOPLE THAT
 7 THEY HAVE TO GO AND CREATE DATA THAT ISN'T THERE. THEY
 8 TAKE THE DATA THEY HAVE, THEY REPORT IT. THAT'S ESSENTIALLY
 9 WHAT WE'RE DOING.
 10 THE COURT: MR. BLATZ, WHY IS IT SUCH A HARD THING TO
 11 PRODUCE THIS INITIAL DISCLOSURE DATA?
 12 MR. BLATZ: WELL, YOUR HONOR, THE VOLUMINOUS NATURE
 13 OF 80 PLUS STIPULATING PARTIES FOR THAT ONE PART OF IT,
 14 THE REALITY IS THAT IT WOULD BE VERY CUMBERSOME FOR MYSELF
 15 AND MY STAFF TO BE ABLE TO COMPLETE THAT.
 16 ON AVERAGE, THE CURRENT INITIAL DISCLOSURES WE'RE
 17 DOING, WHICH ARE FAIRLY CONSISTENT IN THE FACT THAT WHETHER
 18 YOU'RE A SMALL PARTY OR BIG PARTY ALL THE SAME INFORMATION
 19 HAS TO BE PROVIDED, ARE TAKING ON ROUGHLY TWO TO THREE HOURS
 20 PER PARTY. THEY HAVE TO BE DRAWN UP, THEY HAVE TO GET
 21 FILED.
 22 AND THESE ARE PARTIES WHO HAVE SUCH LITTLE INTEREST
 23 IN THIS, THEY HAVE -- YOU KNOW, I WORKED WITH MR. HAGERTY
 24 AND MR. PISANO AT VENTURA EXTENSIVELY TO GET AN OPTION FOR
 25 THESE SMALL PARTIES TO GET IN AND OUT OF THIS CASE, AT
 26 LEAST ON THE SIDELINE, AS SIMPLY AND AS COST EFFECTIVELY
 27 AS POSSIBLE, AND THEY WERE FRANKLY PROMISED, BECAUSE THAT
 28 IS WHAT I BELIEVED, BASED ON MASSIVE AMOUNTS OF INFORMATION

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1 WITH THE CITY OF VENTURA, AND I'M NOT THROWING ANYONE UNDER
 2 THE BUS, I THINK THAT WAS WHAT WAS REASONABLY ANTICIPATED,
 3 IS THAT THEY WOULD NOT NEED TO DO ANY INITIAL DISCLOSURES.
 4 AND IF MR. MELNICK SAYS HE WANTS DATA ON WHETHER
 5 THEY PUMP OR DON'T PUMP, IF YOU WANT A YES-OR-NO QUESTION
 6 ON WHETHER THEY ARE A ZERO PUMPER JUST TRYING TO PROTECT
 7 A FUTURE RIGHT VERSUS A CURRENT PUMPER WHO USES, YOU KNOW,
 8 WHATEVER, ONE OR TWO ACRE FEET, WE CAN GET A YES OR NO
 9 ON THAT, BUT ASKING THESE PEOPLE TO GO BACK AND DIG UP
 10 TEN YEARS OF DATA IS NOT AS SIMPLE AS JUST DOING NOTHING.
 11 AND THAT'S JUST ONE OF THE VARIOUS QUESTIONS.
 12 THE OTHER QUESTIONS INVOLVE WHAT ARE THE BASIS OF
 13 YOUR WATER RIGHTS, OTHER THINGS, AND ALL OF THOSE THINGS
 14 TAKE ME COMMUNICATING WITH THEM, EXPLAINING TO THEM WHAT
 15 EXACTLY THAT MEANS. AND OBVIOUSLY IF I'M REQUIRED TO DO
 16 INITIAL DISCLOSURES FOR MY CLIENTS, I DON'T WANT THEM
 17 ROUGH-SHODDING IT BY JUST PUTTING IN, "WELL, I USE WATER,"
 18 THEY HAVE TO UNDERSTAND AND EXPRESS EXACTLY WHAT THEIR
 19 INTERESTS ARE. AND THEY'RE VERIFIED. WE CAN'T HAVE
 20 ANYTHING IN THERE THAT'S INCORRECT INFORMATION.
 21 SO YES, THE PROCESS OF DOING IT IS NOT
 22 SIGNIFICANTLY DIFFERENT THAN THE OTHER PARTIES, BUT
 23 THERE'S STILL LITTLE INTEREST IN IT. THE COST AND
 24 TIME I DO THINK WOULD BE EXTREMELY BURDENSOME.
 25 THE COURT: I'M LOOKING AT A RANDOM SELF-REPRESENTED
 26 LITIGANT'S INITIAL DISCLOSURE SIGNED JUNE 7 BY ELISANDRO
 27 LOBBA, L-O-B-B-A, AND MARY JACKSON. 12 QUESTIONS. THEY
 28 START BY ACKNOWLEDGING THEY ONLY PUT A METER ON THEIR

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1 WELL IN 2020, ESTIMATING THEY HAVE A YEARLY YIELD OF
 2 50,000 GALLONS, AND NO DATA FOR PRIOR YEARS FOR WANT OF
 3 A METER, SOME BASIC INFORMATION ABOUT ADDRESS AND PHONE
 4 NUMBER, AN E-MAIL.
 5 A QUESTION ABOUT "TYPE OF WATER RIGHT?"
 6 ANSWER: "PREEXISTING WELL."
 7 "DESCRIPTION OF PURPOSE?"
 8 "GARDEN AND FRUIT TREES."
 9 "LOCATION OF EACH WELL?"
 10 ANSWER: "ONE WELL LOCATED ON THE LOWER PART OF
 11 PROPERTY."
 12 "AREA IN WHICH THE WATER IS USED?"
 13 "THROUGHOUT THE PROPERTY."
 14 "ANY CLAIMS FOR INCREASED OR FUTURE USE?"
 15 NO RESPONSE.
 16 "QUANTITY OF ANY BENEFICIAL USE?"
 17 NO RESPONSE.
 18 "IDENTIFICATION OF SURFACE WATER RIGHTS AND
 19 CONTRACTS, ET CETERA."
 20 "ORIGINALLY THE PROPERTY RELIED ENTIRELY ON WELL
 21 WATER. WITH A DROUGHT, WE CONNECTED TO CASITAS WATER
 22 DISTRICT FOR DRINKING WATER AND HOUSE WATER USE," PERIOD,
 23 END OF ANSWER.
 24 QUESTION: "INTENT ABOUT REPLENISHMENT OF WATER."
 25 A BUNCH OF N/A'S,
 26 QUESTION 11, NO RESPONSE.
 27 QUESTION 12, NO RESPONSE.
 28 SIGNED.

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1 NOW, I COULD COMPARE THAT TO A RECENT DISCLOSURE
 2 BY THACHER SCHOOL OR OJAI VALLEY INN. I'M SURE THOSE WOULD
 3 GO ON FOR SOME PAGES. THEY HAPPEN TO BE HERE.
 4 IF THE CITY FEELS IT DOESN'T NEED IT AND THE CITY
 5 IS THE PROPONENT, WHY DON'T YOU LET THEM HUMBLE THEMSELVES,
 6 MR. MELNICK?
 7 MR. MELNICK: WELL, I SUPPOSE, YOUR HONOR, IF THEY WANT
 8 TO STIPULATE THAT THEY ARE NOT GOING TO MEET THE 50 AND 75
 9 PERCENT THRESHOLDS, FINE. BUT THE INITIAL DISCLOSURE IS --
 10 THE COURT: WELL, LET'S ASSUME -- HOW MANY GROUNDWATER
 11 BASIN PEOPLE ARE GIVING NOTICE OF A CASE? NOT ALL OF WHOM
 12 ARE GOING TO BE NAMED BECAUSE THIS IS GROUNDWATER. HOW MANY
 13 PROPERTIES OWNERS DID WE HAVE? OR PARCELS? I MEAN, THIS
 14 GOES BEYOND 10,000, ISN'T IT?
 15 MR. HAGERTY: OH, PARCELS? YES, THERE'S OVER 10,000
 16 PARCELS.
 17 THE COURT: SO IF I'VE GOT A HUNDRED OF 10,000 PARCELS
 18 SAYING "LEAVE ME ALONE" BUT BOTHERING TO COME TO COURT AND
 19 SAYING "LEAVE ME ALONE," AND SOME OF THOSE MAY BE RIPARIAN,
 20 BECAUSE THERE ARE TECHNIQUES AVAILABLE FOR RIPARIANS AS
 21 WELL AS PARCELS, BUT OUT OF 10,000 -- FIRST OFF, THIS WHOLE
 22 QUESTION OF 850 (B) DOESN'T HAVE TO DO WITH RIPARIAN RIGHTS,
 23 IT WILL BE ADJUDICATED SEPARATELY.
 24 TRUE, MR. HAGERTY?
 25 MR. HAGERTY: YOUR HONOR, 850(B) IS NOT BEFORE THE
 26 COURT RIGHT NOW. AND TO ANSWER MR. MELNICK'S QUESTION,
 27 850(B) DOESN'T SAY BASED ON THE INITIAL DISCLOSURES.
 28 IF WE GET THERE, IT'S AN ELEMENT OF PROOF, WHICH

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1 THEY CERTAINLY WOULDN'T STIPULATE TO AS MR. MELNICK
 2 PROPOSED. BUT WHY IT'S NEEDED NOW IS UNCLEAR.
 3 THE COURT: WELL, YOU'RE STIPULATING PEOPLE FAVOR YOUR
 4 JUDGMENT. YOU'VE GOT THEM TO BUY IN EARLY, BUT YOU'VE GOT
 5 THEIR VOTES.
 6 MR. HAGERTY: YES.
 7 THE COURT: THE QUESTION IS DO THEIR VOTES COUNT.
 8 MR. HAGERTY: AND WE WILL HAVE TO PROVE THAT OR NOT
 9 PROVE THAT WHEN THE TIME COMES.
 10 THE COURT: SO IF YOU LOSE A HUNDRED VOTES YOUR POINT
 11 IS I CAN AFFORD TO LOSE THESE HUNDRED VOTES. I DON'T NEED
 12 THESE HUNDRED VOTES.
 13 MR. HAGERTY: NO, I'M NOT SAYING WE WOULD LOSE THOSE
 14 HUNDRED VOTES, YOUR HONOR. I MEAN, THERE WILL BE A TIME
 15 WHEN THERE'S AN ELEMENT OF PROOF AND WE WOULD HAVE TO PROVE
 16 TO THE COURT'S SATISFACTION, AND THE PARTIES CAN CONTEST IT,
 17 THAT WE HAVE THE --
 18 THE COURT: IF WE HAVE THE BENEFIT OF THE INITIAL
 19 DISCLOSURE, THEY NEVERTHELESS WERE, AT LEAST TO SOME DEGREE,
 20 A TAKER.
 21 MR. HAGERTY: YES. YES, YOUR HONOR.
 22 I MEAN, ESSENTIALLY TO THE EXTENT WE HAVE ALWAYS
 23 TAKEN THE POSITION THAT THAT ISSUE COULD BE DEFERRED FOR
 24 NOW.
 25 I MEAN, WE'RE SPENDING A LOT OF TIME ON AN ISSUE
 26 THAT WE DON'T THINK IS RELEVANT AT THIS TIME. WE THINK
 27 SETTING THE TRIAL DATE FOR THE FIRST PHASE AND GETTING THAT
 28 IS THE BEST WAY TO GET THE PARTIES MOTIVATED TO TALK ABOUT

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1 SETTLEMENT.
 2 YOU ASKED THAT QUESTION EARLIER, AND REQUIRING
 3 SOME SMALLER PARTIES -- LIKE, FOR EXAMPLE, WHEN WE TALK TO
 4 THE GRISBYS, THE FIRST THING THEY'RE GOING TO SAY IS: DO
 5 I HAVE TO DO THE INITIAL DISCLOSURES?
 6 AND WE'RE GOING SAY: WELL, THE STATE THINKS
 7 THEY'RE NECESSARY AND THE COURT HAS CURRENTLY SAID THAT
 8 THEY'RE REQUIRED.
 9 THE COURT: WELL, I'M THINKING ABOUT THAT.
 10 MR. HAGERTY: YEAH.
 11 THE COURT: AT THE MOMENT MY MIND IS UNCERTAIN.
 12 MR. HAGERTY: YEAH.
 13 THE COURT: LET ME GO BACK TO MR. BLATZ ON SOMETHING
 14 DIFFERENT.
 15 MR. BLATZ, DO YOU HAVE ANY PRACTICAL IDEA OF HOW
 16 I START MOTIVATING PEOPLE TO RESUME SETTLEMENT TALKS IN
 17 EARNEST?
 18 MR. BLATZ: WELL, YOUR HONOR, WELCOME TO THE CLUB.
 19 FROM MY POSITION, I'M ALSO A CITY COUNCIL MEMBER
 20 OF THE CITY OF OJAI, I'VE BEEN TRYING TO GET THEM BACK IN
 21 THE ROOM TOGETHER FROM WHATEVER ANGLE AND LEVERS THAT I
 22 COULD PUSH. AS FAR AS THE PLAYERS INVOLVED, IT WAS VERY
 23 GOOD TO HEAR WHAT MR. COSGROVE SAID.
 24 I THINK THAT CASITAS'S LEAVING IN THE MIDDLE OF
 25 COVID, THAT THERE WAS -- IT WAS A VERY DIFFICULT TIME FOR
 26 EVERYBODY, AND I THINK THAT STALLED THE COMMUNICATIONS
 27 AND DISCUSSIONS. BECAUSE THEY WERE ROBUST.
 28 I MET WITH MR. PATTERSON, WHO ALSO HAD SPOKEN

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1 EARLIER, AND MR. HAGERTY. WE'VE ALL MET YEARS AGO TRYING
 2 TO BEGIN THE PROCESS OF GETTING SOME OF THE PARTIES TO
 3 START DISCUSSING AND DEALING WITH THESE ISSUES.
 4 AT THIS POINT OTHER THAN, YOU KNOW, HOPING THAT
 5 CASITAS CONTINUES TO BE IN GOOD-FAITH DISCUSSIONS -- AND,
 6 YOU KNOW, THEY WERE INVOLVED IN, AND I DON'T WANT TO SPEAK
 7 FOR THEM, BUT THEY WERE INVOLVED IN MEDIATION AND LEFT,
 8 IT'S VERY POSITIVE TO HEAR THAT THEY'RE RETURNING TO
 9 IT, AND, YOU KNOW, WITH ALL OF THE COMPLICATED NATURE
 10 OF ALL OF THESE DIFFERENT BASINS INTERACTING FOR A REMOTE
 11 FLOW RIVER PROBLEM, NOT A NORMAL ADJUDICATION KIND OF
 12 CIRCUMSTANCE, ONE OF THOSE ALTERNATIVE REMEDIES MIGHT BE
 13 THE BEST.
 14 SO IT'S ALWAYS BEEN DIFFICULT, THOUGH. CASITAS
 15 ISN'T ONBOARD WITH IT BECAUSE THEY ARE PROBABLY THE BIGGEST
 16 PLAYER IN ALL OF THIS. IT'S DIFFICULT TO IMAGINE THAT WE
 17 CAN ABSOLUTELY GET SOMETHING DONE WITHOUT THEIR INVOLVEMENT,
 18 WHETHER IT'S SUPPORTIVE OR NOT.
 19 SO I DON'T HAVE ANY MAGIC TO MAKE THAT HAPPEN, BUT
 20 IT WAS POSITIVE WHAT WE HEARD TODAY FROM MR. COSGROVE.
 21 THE COURT: MR. PATTERSON, ANY HINTS ON HOW I CAN LEAN
 22 INTO THIS CROWD?
 23 MR. PATTERSON: WELL, YOUR HONOR, I DO THINK THAT, YOU
 24 KNOW, MR. BLATZ IS -- OR, YOU KNOW, CASITAS IS A SIGNIFICANT
 25 AND IMPORTANT PLAYER IN THIS BECAUSE MOST OF THESE, AT LEAST
 26 THE AG FOLKS I REPRESENT, ASIDE FROM DRAWING GROUNDWATER,
 27 ALSO OCCASIONALLY TAKE WATER FROM CASITAS, AND HOW THAT'S
 28 GOING TO WORK OUT IN ANY KIND OF PHYSICAL SOLUTION IS VERY

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1 IMPORTANT TO THEM SO THAT THEY'RE NOT GETTING HAMMERED BY
 2 FEES FROM CASITAS AND FEES FOR THEIR GROUNDWATER PUMPING
 3 THAT MAY NOT REFLECT THEIR IMPACT ON SURFACE WATER FLOW.
 4 SO I THINK, YOU KNOW, ONE CAN -- AND ALSO, YOU
 5 KNOW, THERE ARE A WHOLE BUNCH OF PARTIES, MR. BLATZ
 6 REPRESENTS QUITE A FEW OF THEM, WE'VE BEEN, FRANKLY, FROM
 7 MY PERSPECTIVE GETTING CALLS FROM FOLKS WHO, YOU KNOW, MAY
 8 GET SERVED AND/OR WILL BE SERVED THROUGH PUBLIC SERVICE,
 9 YOU KNOW, THAT REALLY IT SEEMS TO ME WE CAN TALK TO THE
 10 CITY ABOUT PUTTING A WHOLE BUNCH OF THOSE PEOPLE ON THE
 11 SHELF.
 12 ONE OF THE ISSUES I'M CONCERNED ABOUT THAT WILL
 13 BE -- AND, FRANKLY, WE HAVEN'T REAL FACED THIS, IS THAT
 14 A LOT OF THE PEOPLE THAT ARE STIPULATING TO THE PHYSICAL
 15 SOLUTION HAVE NO FIGHT IN THE PHYSICAL SOLUTION. THEY'RE
 16 GOING TO BE BELOW THE DI MINIMIS THRESHOLD, THEY WON'T HAVE
 17 TO PAY ANY MONEY TO SUPPORT THE PHYSICAL SOLUTION, AND YET
 18 THEY'RE STIPULATING TO TRY TO GET TO THIS 50 PERCENT THAT
 19 THE CITY MAY NEED AT SOME POINT.
 20 AND I HAVE A CONCERN THAT THAT COULD BE A PROBLEM,
 21 BECAUSE THERE ARE PARTIES WHO ARE STIPULATING TO A SOLUTION
 22 IN WHICH THEY WILL HAVE ABSOLUTELY NO PART IN WHATSOEVER,
 23 WHETHER THEY CONTESTED IT OR STIPULATED TO IT, IN TRYING
 24 TO GET TO THAT 50 PERCENT THRESHOLD, AND I HAVE NO IDEA
 25 WHAT THE AMOUNT OF WATER IS FOR ALL THOSE PARTIES THAT WOULD
 26 GET TO THE 70 PERCENT UNDER THE SECTION (B) THRESHOLD.
 27 SO I THINK THAT THAT WOULD BE A USEFUL DISCUSSION
 28 WITH THE CITY AS TO WHETHER WE CAN PARK, AT THE VERY LEAST

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1 PARK A LOT OF DE MINIMIS PARTIES ON THE SHELF FOR THE TIME
 2 BEING WITH SOME DISCLOSURE ABOUT WATER USE SO WE HAVE SOME
 3 SENSE OF THE AMOUNT OF WATER USE, BUT THAT MAY INVOLVE --
 4 IT WOULD BE SHORT OF AN INITIAL DISCLOSURE BUT AT LEAST
 5 ALLOW US TO HAVE A SENSE THAT WE'VE GOT -- YOU KNOW, WE'VE
 6 GOT X AMOUNT OF PEOPLE WHO HAVE THIS AMOUNT OF WATER THAT
 7 WE'RE NOT REALLY ALL THAT CONCERNED ABOUT WITH RESPECT
 8 TO THE PHASE 2 -- I MEAN, I'M SORRY, THE PHASED TRIAL
 9 ISSUES, AND JUST KIND OF PARK THEM SO THEY'RE NOT HAVING
 10 TO DEAL WITH THIS, YOUR HONOR. BECAUSE A LOT OF THESE
 11 FOLKS, AS YOU'VE HEARD, ARE, YOU KNOW, VERY SMALL PARTIES.
 12 THEY CAN'T AFFORD TO BE IN A MONTHS-LONG WATER LITIGATION
 13 WHEN THEY HAVE NO PONY IN THE RACE.
 14 MR. OSIAS: YOUR HONOR?
 15 THE COURT: WHO IS THIS?
 16 MR. OSIAS: THIS IS DAVID OSIAS AGAIN.
 17 THE COURT: GO AHEAD, MR. OSIAS.
 18 MR. OSIAS: I'M A SMALL USER. I'M STRUCK A LITTLE BIT
 19 BY SORT OF THE CIRCULAR PATH WE ARE TAKING HERE. SO LET
 20 ME SEE IF I CAN ORGANIZE A LITTLE BIT ALL THE THINGS WE'VE
 21 HEARD AS TO THE CURRENT QUESTION.
 22 WE HAVE PROBABLY A LARGE NUMBER OF VERY SMALL USERS
 23 WHO -- BECAUSE OF BOTH THEIR SMALL USE AND THEIR GEOGRAPHY,
 24 BECAUSE WE HEARD SOME DISCUSSION EARLIER ABOUT WHERE THEY
 25 ARE, WHO DON'T BELIEVE THEY SHOULD BE IN THIS CASE, AND --
 26 OR EVEN NOT JUST IN THE CASE BUT THE BOUNDARY OF THE
 27 PHYSICAL SOLUTION IF THERE'S GOING TO BE ONE, YOU KNOW, THAT
 28 SHOULDN'T BE THE ENTIRE WATERSHED BECAUSE THEIR LOCATION

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1 COMBINED WITH THEIR SMALL USE IS NOT REALLY WHAT THIS CASE
 2 IS ABOUT.
 3 YOUR HONOR'S QUESTION ABOUT GETTING FOLKS TO
 4 LEAN INTO SETTLEMENT IS NOT GOING TO BE THROUGH THEM UNLESS
 5 THERE'S SOME SURPRISING FACTS COMING OUT OF THIS PHASE I.
 6 YOU HAVE OTHER SMALL USERS, THOUGH, WHO MIGHT BE
 7 IN A KEY LOCATION, AND THEY MAY NOT BE IN THE SAME BOAT AS
 8 THOSE THAT ARE IN A GEOGRAPHIC LOCATION THAT'S UNLIKELY TO
 9 BE CAUSING THE ISSUES THAT INSTIGATED THIS LITIGATION TO
 10 BEGIN WITH.
 11 THE DISCLOSURES -- WELL, ACTUALLY I HAVE A
 12 QUESTION. AND I APOLOGIZE, I'VE ONLY BEEN IN THE CASE
 13 ABOUT TWO MONTHS. IS THERE A LIST BY GEOGRAPHY OF THE
 14 SMALL USERS SO THAT THEY COULD BE TALKING TO EACH OTHER
 15 PERHAPS?
 16 THE COURT: I DON'T KNOW.
 17 BUT MR. PISANO OR MR. HAGERTY, DO YOU KNOW IF
 18 THERE IS ANY SUCH LIST?
 19 MR. HAGERTY: WELL, WE HAVE PROVIDED ON THE WEBSITE A
 20 WAY TO FIGURE OUT WHERE YOU ARE AND WHERE OTHER PARTIES ARE.
 21 IF THAT'S THE QUESTION, THERE'S A WAY FOR PEOPLE TO FIGURE
 22 OUT WHO'S IN THE SAME BOAT. SO...
 23 MR. OSIAS: I'VE SEEN AN APN LIST. IS THAT WHAT YOU'RE
 24 REFERRING TO, MR. HAGERTY?
 25 MR. HAGERTY: THAT'S CORRECT, YES.
 26 MR. OSIAS: OKAY. SO THERE'S HUNDREDS -- AND I DON'T
 27 WANT TO ESTIMATE WRONG, BUT IT'S A QUITE LENGTHY LIST
 28 WITHOUT ADDRESSES, FOR EXAMPLE, JUST APN NUMBERS, AND

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1 THE APN NUMBERS ARE NOT NECESSARILY EVEN LEGAL LOTS,
 2 THEY'RE TAX PARCELS. AT LEAST THAT'S MY UNDERSTANDING.
 3 SO THAT'S SOME USE, BUT NOT VERY CHEAP AND EASY.
 4 AND THIS GOES TO THE PROBLEM OF SMALL, LARGE NUMBER,
 5 SMALL-TIME PARTICIPANTS.
 6 I THINK THE QUESTION ABOUT SUMMARY JUDGMENT
 7 SORT OF RELATES TO THE KEY QUESTION OF SHOULD THESE PEOPLE
 8 BE INVOLVED OR NOT BASED ON A COMBO OF LOCATION AND/OR
 9 VOLUME. AND YET I DON'T THINK THAT'S REALISTIC TO HAPPEN
 10 UNTIL YOU HAVE SOME PORTION OF EDUCATION ABOUT THE BASINS
 11 AND THE VOLUMES AND WHERE THE WATER COMES FROM AND GOES.
 12 BUT BASED ON THAT, THESE PEOPLE MAY NOT NEED
 13 TO BE INVOLVED ANY FURTHER AND, HENCE, HAVING THEM DO
 14 DISCLOSURES FIRST MAY BE PREMATURE.
 15 JUST SORT OF TRYING TO GET BACK TO THE QUESTION
 16 THAT YOU'RE ASKING.
 17 THE COURT: THANK YOU.
 18 I WOULD URGE YOU, MR. OSIAS, IF YOU THINK MORE
 19 NEEDS TO BE DONE WITH THE WEBSITE TO THINK TO MAKE IT A
 20 UNILATERAL REPORT FOR THE NEXT STATUS CONFERENCE, TELLING
 21 ME WHAT YOU FEEL OUGHT TO BE DONE, BECAUSE SUA SPONTE ON
 22 MY OWN IT'S HARD FOR ME TO COME AND RECOGNIZE THAT AS A
 23 NEUTRAL CASE MANAGER MAYBE I OUGHT TO BE DOING MORE TO
 24 MAKE IT MORE FUNCTIONALLY USER-FRIENDLY FOR SMALL USERS
 25 AND SELF-REPRESENTED PARTIES.
 26 MR. OSIAS: I WAS UNDER THE IMPRESSION THEY WOULD KNOW.
 27 BECAUSE IN ORDER TO DETERMINE THE IMPORTANCE OF ANY WATER
 28 USER TO THE CONNECTIVITY ISSUE, THEY WOULD HAVE PLOTTED

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1 THEM ON A MAP.
 2 BUT IF THEY'RE SAYING THEY HAVEN'T DONE THAT,
 3 THEN --
 4 MR. HAGERTY: NO, YOUR HONOR, WE'RE NOT SAYING THAT.
 5 I MEAN, WE KNOW WHERE PEOPLE ARE WITHIN THE WATERSHED.
 6 AND I GUESS, YOUR HONOR, I'D JUST ASK THE COURT,
 7 WE THINK SETTING THE TRIAL DATE IS THE BEST WAY TO GET THESE
 8 CONVERSATIONS MORE MEANINGFULLY MOVING FORWARD BECAUSE --
 9 THE COURT: INCLUDING SETTLEMENT?
 10 MR. HAGERTY: OF COURSE.
 11 YOUR HONOR, I DON'T THINK THERE'S ANY PARTY
 12 HERE WHO'S EVER APPROACHED US REGARDING DISCUSSION OF
 13 THE PHYSICAL SOLUTION THAT WE HAVEN'T TALKED TO.
 14 SO WE'RE ALWAYS OPEN ON THAT, YOUR HONOR.
 15 THAT IS NOT AN ISSUE.
 16 THE COURT: IS THERE ANYBODY ELSE WHO I HAVEN'T HEARD
 17 FROM THIS AFTERNOON WHO WANTS TO BE HEARD ON THE QUESTION
 18 OF THE MOTION TO BIFURCATE AND SETTING THE TRIAL? SOMEONE
 19 WHO HASN'T SPOKEN SO FAR.
 20 MR. GIBSON: YES, YOUR HONOR. MAY I SPEAK?
 21 THE COURT: THIS IS MR. KELTON GIBSON?
 22 MR. GIBSON: THIS IS KELTON GIBSON. I'M IN THE CASE
 23 PRO PER, ALTHOUGH I AM AN ATTORNEY.
 24 THE COURT: GO AHEAD, MR. GIBSON.
 25 MR. GIBSON: SEVERAL COMMENTS YOU MADE EARLIER AND
 26 QUESTIONS THAT YOU HAD, ONE OF THEM WAS WHAT DO WE DO TO
 27 GET THE CASE TO TRIAL. OR WHAT DO WE NEED TO DO TO GET
 28 IT RESOLVED. AND IT'S BEEN MY EXPERIENCE THAT THE WAY

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1 YOU GET A CASE TO TRIAL IS BY SETTING A TRIAL DATE.
 2 THE PROBLEM HERE THAT YOU HAVE IS THAT YOU CAN'T
 3 SET A TRIAL DATE UNLESS THE CASE IS AT ISSUE. AND IT'S
 4 REALLY GOING TO BE TOUGH FOR THE CITY TO GET THIS CASE AT
 5 ISSUE WHEN YOU'VE GOT 10,000 PARTIES IN IT AND 10,000 PARCEL
 6 NUMBERS.
 7 I AM ONLY IN THIS CASE BECAUSE MY PROPERTY, WE
 8 MAY POTENTIALLY WANT TO HAVE A WELL ON IT. WE MAY WANT TO
 9 EVENTUALLY DO IT. YET WE'RE BEING DRAGGED IN WITH 10,000
 10 OTHER PEOPLE INTO THIS LITIGATION.
 11 WHAT I WOULD SUGGEST, TO GET THIS CASE RESOLVED AND
 12 TO MOVE AHEAD, WOULD BE TO GET RID OF SOME OF THE PEOPLE
 13 LIKE ME, WHO IS A NONPRODUCER, AND THE DE MINIMUS PEOPLE
 14 WHO DON'T HAVE ANY CLAIMS REALLY, SUCH AS THE OJAI VALLEY
 15 INN, THACHER SCHOOL, AND THE OTHER BIG PLAYERS IN THE
 16 VARIOUS WATER DISTRICTS. GET THE SMALL GUYS OUT, DISMISS
 17 THEM, AND GO TO TRIAL WITH THE MAJOR ONES. SET A TRIAL
 18 DATE.
 19 LIKE I SAY, I'M ONLY IN THIS CASE BECAUSE I WANT
 20 TO PRESERVE MY RIGHT TO HAVE A WELL. NOW, THE PHYSICAL
 21 SOLUTION THAT HAS BEEN SUGGESTED HAS THAT, BUT IT HAS
 22 ME, IN ORDER TO BE ABLE TO GET THAT, HAVING TO APPLY TO
 23 A MANAGEMENT COMMITTEE AND A WATER CZAR, WHO IS BASICALLY
 24 CONTROLLED BY THE BIG PLAYERS, BY THE MUNICIPALITIES, IN
 25 ORDER TO EVENTUALLY DRILL A WELL. AND THAT'S UNACCEPTABLE
 26 TO ME, AND THAT'S WHY I'M IN THE CASE AT THIS POINT.
 27 NOW, THOSE ARE MY COMMENTS TO YOU. BUT THE
 28 OTHER THING I WANT TO COMMENT ON IS THAT I LOOKED UP THE

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1 DEFINITION OF "PIPSQUEAK," AND THE DEFINITION OF "PIPSQUEAK"
 2 IS SOMEONE WHO IS INSIGNIFICANT. AND MY CASE, ALTHOUGH I
 3 AM A SMALL PLAYER, TO ME, AND PROBABLY OTHER PARTIES, THEIR
 4 OWN RIGHTS DO NOT SEEM TO BE INSIGNIFICANT. AND I OBJECT
 5 TO BEING REFERRED TO AS A PIPSQUEAK, YOUR HONOR.
 6 THE COURT: SO MR. GIBSON, NO OFFENSE WAS MEANT BY
 7 REFERRING TO PEOPLE WITH NO WELLS BUT POTENTIAL WELLS AND
 8 SMALL WELLS AS PIPSQUEAKS. SO THE FACT THAT AT THE MOMENT
 9 THEIR WATER TAKE IS A SMALL AMOUNT IS A QUESTION ABOUT HOW
 10 THEY FIT IN AS COMPARED TO LARGE CONSUMPTIVE USERS LIKE
 11 THACHER AND OJAI VALLEY INN.
 12 TURNING TO YOUR QUESTION ABOUT WHY WE CAN'T
 13 LET PEOPLE LIKE YOU GO, AT ONE LEVEL, ADMINISTRATIVELY,
 14 I WOULD LOVE TO CUT LOOSE PEOPLE IN YOUR CIRCUMSTANCE,
 15 MR. GIBSON. BUT AS I UNDERSTAND IT, BOTH BECAUSE THE
 16 LEGISLATURE WHEN THEY CAME UP WITH THIS, QUOTE, STREAMLINED
 17 GROUNDWATER ADJUDICATION STATUTE PROVIDED FOR THIS PROCESS
 18 AND BECAUSE OF BASIC THEORIES OF DUE PROCESS WOULD REQUIRE
 19 IT OTHERWISE EVEN IF THE LEGISLATURE HADN'T CODIFIED IT,
 20 WHAT THE CITY WANTS TO HAVE HAPPEN AT THE END OF THIS
 21 EXERCISE IS THAT CERTAIN CURRENT USES ARE VALIDATED AND
 22 ANY FUTURE USES THAT MIGHT DRAW ON THE SAME SCARCE RESOURCE
 23 WOULD BE LIMITED IF NOT TOTALLY CUT OFF -- HERE AT LEAST, AS
 24 I GET MR. GIBSON'S DESCRIPTION OF A PHYSICAL SOLUTION, THEY
 25 WOULDN'T BE CUT OFF, BUT THEY WOULD BE LIMITED BY A PROCESS,
 26 AND THEORETICALLY THE ONLY WAY THEY CAN PUT THAT BURDEN
 27 ON YOUR FEE SIMPLE, MR. GIBSON, IS IF THEY HAVE YOU IN
 28 THE LAWSUIT AT THE TIME THE HAMMER IS DROPPED.

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1 BECAUSE IF YOU'RE NOT IN THE LAWSUIT AT THE TIME
 2 THAT THE HAMMER IS DROPPED, THEN THEY'LL HAVE NO LEGAL WAY
 3 OF FORCING YOU OR SOMEBODY WHO'S A SUCCESSOR IN INTEREST TO
 4 YOUR FEE SIMPLE, THEY WOULD HAVE TO GO GO ON BENDED KNEE TO
 5 SOME WATER CZAR AND SAY: PRETTY PLEASE MAY I HAVE A WELL TO
 6 TAKE 50,000 GALLONS A YEAR.
 7 MR. HAGERTY: YOUR HONOR, MAY I COMMENT ON THAT?
 8 MR. GIBSON: UNLESS THEY CHOOSE NOT TO ADJUDICATE MY
 9 RIGHTS. THEY HAVE NO REAL INTEREST IN ADJUDICATING MY
 10 RIGHTS.
 11 THE COURT: WELL, IF YOU AND EVERYBODY ELSE UP AND DOWN
 12 YOUR STREET DRILLED FOR 50,000 GALLONS ON EVERY LOT ON THE
 13 STREET, THAT ALL OF A SUDDEN 50,000 TIMES 20 OR A HUNDRED
 14 BECOMES A REAL TAKE.
 15 MR. HAGERTY?
 16 MR. HAGERTY: I JUST WANT TO PUT SOMETHING IN CONTEXT.
 17 I MEAN, YES, THERE ARE 10,000 PARCELS WITHIN THE
 18 WATERSHED. WE HAVE COMPLETED, AND THE COURT'S RECEIVED
 19 DOCUMENTATION THAT WE HAVE DONE, THE NOTICE PROCESS
 20 THAT'S REQUIRED TO GIVE THE COURT IN REM JURISDICTION.
 21 THAT PROCESS IS COMPLETE. WE ARE, WITH THE ORDERS
 22 TODAY, SUBSTANTIALLY COMPLETE WITH THE PERSONAL SERVICE
 23 PROCESS. AND THERE ARE ABOUT 250 PARTIES THAT HAVE
 24 PARTICIPATED IN THE CASE.
 25 SO WE'RE NOT TALKING ABOUT 10,000 DEFENDANTS.
 26 WE'RE TALKING ABOUT 250 PEOPLE WHO HAVE EITHER BEEN NAMED
 27 AND RESPONDED OR HAVE ELECTED TO APPEAR IN THE ACTION.
 28 AND SO --

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1 THE COURT: SO FAR AND AWAY MOST OF THE RIPARIAN
 2 ARE IGNORING THE CASE AND ARE GOING TO BE DEFAULTED?
 3 MR. HAGERTY: YES, YOUR HONOR. YES. AND MOST OF
 4 THE PARCELS THAT RECEIVE NOTICE ELECTED NOT TO BECOME
 5 PARTIES.
 6 AND SO WE ARE READY TO --
 7 THE COURT: BUT YOU HAVE TO DEFAULT THE RIPARIANS.
 8 MR. HAGERTY: CORRECT, YOUR HONOR. AND WE'RE IN THAT
 9 PROCESS, AS THE COURT HAS DISCUSSED.
 10 THE COURT: BUT AS YOU COUNT NOSES, A HIGH PERCENTAGE
 11 OF THE NAMED RIPARIAN CROSS-DEFENDANTS HAVE IGNORED THE
 12 OPPORTUNITY TO COME AND DEFEND THEIR RIGHTS.
 13 MR. HAGERTY: YES, YOUR HONOR.
 14 THE COURT: OKAY. SO BE IT.
 15 I'M NOT SO WORRIED ABOUT THE CASE NOT BEING AT
 16 ISSUE FOR PURPOSES OF SETTING A TRIAL.
 17 MR. GIBSON: THERE'S ALSO THE ISSUE THAT THE PARTIES
 18 HAVE IGNORED IT. I'VE BEEN CONTACTED BY A NUMBER OF MY
 19 NEIGHBORS AND OTHER CLIENTS THAN I HAVE IN THE OJAI VALLEY
 20 INDICATING THAT THEY HAVE BEEN NAMED IN THE LAWSUIT EITHER
 21 AS A ROE DEFENDANT OR ELSE THEIR PARCEL HAS BEEN NAMED AND
 22 "WHAT DO WE DO?" AND I SAID JUST GET A LAWYER. AND THEY
 23 CANNOT FIND LAWYERS.
 24 THIS IS A HIGHLY SPECIALIZED AREA OF LAW, AND MOST
 25 LAW FIRMS SUCH AS MINE ARE GOING TO TAKE THE POSITION THAT
 26 THEY HAVE A CONFLICT OF INTEREST IN REPRESENTING OTHERS
 27 THAT -- WHEN THEY GET NUMEROUS PARTIES IN THE CASE.
 28 SO I HAVE CLIENTS RIGHT NOW WHO CAN'T FIND LAWYERS

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1 IN ORDER TO GET INTO THE CASE.
 2 THE COURT: WELL, THEIR DEFAULT WILL BE TAKEN SOON
 3 ENOUGH. THEY CAN COME TO COURT AND TRY TO SET THEM ASIDE.
 4 IF THEY'RE RIPARIAN, THEY WILL BE DEFAULTED.
 5 IF THEY ARE SIMPLY GROUNDWATER OWNERS, THEY WERE SERVED
 6 WITH AN OPPORTUNITY TO COME TO COURT. BUT IT'S VOLUNTARY.
 7 SO THEY'LL NEVER BE DEFAULTED BECAUSE, AS MR. HAGERTY SAID,
 8 I'M GOING TO TAKE IN REM JURISDICTION RATHER THAN HAVING TO
 9 HAVE IN PERSONA JURISDICTION OVER ALL THOSE UNNAMED PARTIES.
 10 ALL RIGHT. WELL, WE'VE COME TO A POINT. ANYBODY
 11 ELSE BESIDES MR. GIBSON WHO WANTS TO BE HEARD WHO HASN'T
 12 SPOKEN THIS AFTERNOON?
 13 MR. PATTERSON: YOUR HONOR, THIS IS GREG PATTERSON, AND
 14 I HAVE SPOKEN.
 15 THE COURT: YOU HAVE.
 16 MR. PATTERSON: I THOUGHT THAT MAYBE A SUGGESTION WOULD
 17 BE IS THAT THOSE PARTIES WHO WISH TO PARTICIPATE HAVE A
 18 CONVERSATION WITH THE CITY, ALONG WITH TRYING TO DEVELOP A
 19 DISCOVERY SCHEDULE, IF IT WORKS FOR EVERYBODY, AND DISCUSS
 20 HOW WE MIGHT BE ABLE TO CARVE OUT A LOT OF THESE PARTIES
 21 THAT REALLY DON'T NEED TO BE IN THE INITIAL PHASE OF THIS
 22 CASE AND COME UP WITH SOME PROCESS AND SOME AGREEMENT THAT
 23 WE CAN PRESENT TO THE COURT --
 24 THE COURT: THANK YOU.
 25 MR. PATTERSON: -- THAT ALLOWS PARTIES AT THE VERY
 26 LEAST TO --
 27 THE COURT: THANK YOU. THANK YOU.
 28 OKAY. BACK TO MY QUESTION. IS THERE ANYBODY

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1 WHO HASN'T SPOKEN THIS AFTERNOON WHO STILL WOULD LIKE TO
 2 BE HEARD?
 3 OKAY. HEARING NOTHING, THE COURT HAS BEFORE IT
 4 THE CITY OF BUENAVENTURA, COMMONLY KNOWN AS CITY OF VENTURA,
 5 MOTION TO BIFURCATE THE TRIAL AND TO SET A TRIAL ON PHASE I.
 6 AS TO BIFURCATION IT'S UNOPPOSED AND IT'S GRANTED,
 7 WITH THE CITY TO GIVE NOTICE.
 8 AS TO THE PHASE I TRIAL, THE COURT IS GOING TO
 9 SET A 15- TO 20-DAY TRIAL.
 10 IS SOMEBODY CLAIMING JURY, MR. HAGERTY?
 11 MR. HAGERTY: NO, YOUR HONOR.
 12 THE COURT: ANYBODY ELSE CLAIMING JURY FOR THIS TRIAL?
 13 MR. MELNICK?
 14 MR. MELNICK: NO, YOUR HONOR.
 15 THE COURT: ANYBODY ELSE BELIEVE THEY HAVE A RIGHT TO
 16 A JURY?
 17 HEARING NOTHING, IT WILL BE A COURT TRIAL. THAT
 18 WILL BE 10 TO 15 DAYS, SINCE THERE'S NO JURY SELECTION, ON
 19 FEBRUARY 14 NEXT YEAR AT 10:00 A.M., WITH A FINAL STATUS
 20 CONFERENCE ON FEBRUARY 2ND AT 10:00 A.M., WITH THE CITY
 21 TO GIVE NOTICE.
 22 I'M NOT GOING TO MAKE ANY FURTHER RULING TODAY
 23 ON THE QUESTION OF INITIAL DISCLOSURES BY PEOPLE WHO HAVE
 24 SIGNED THE STIPULATION.
 25 LET ME ASK YOU A DIFFERENT QUESTION, MR. HAGERTY.
 26 CLEARLY PEOPLE WHO ARE COOPERATING AND SIGNING THE
 27 STIPULATION FOR PROPOSED JUDGMENT YOU WANT TO EXCUSE
 28 FROM INITIAL DISCLOSURES; TRUE?

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1 MR. HAGERTY: YES, YOUR HONOR.
 2 THE COURT: CAN YOU DEFINE ANOTHER UNIVERSE OF PEOPLE
 3 WHO YOU WOULD LIKewise GIVE AN INDULGENCE AND LET THEM
 4 SKIP INITIAL DISCLOSURES? AND IF SO, HOW DO YOU DEFINE
 5 THAT UNIVERSE? OR THERE IS NO SECOND GROUP.
 6 MR. HAGERTY: I MEAN, ESSENTIALLY IT'S THE DI MINIMIS
 7 USERS. AND SO, YOU KNOW, WE'RE OPEN T -- AND CAN I
 8 MAYBE ANSWER THAT QUESTION BY MAKING A POINT ABOUT THE
 9 STIPULATIONS? THAT, AS MR. BLATZ HAS POINTED OUT, THE
 10 STIPULATION WASN'T INTENDED TO -- IT WASN'T CRAFTED TO
 11 BE SPECIFIC TO 850(B). IT WAS SPECIFICALLY CRAFTED TO
 12 ALLOW PEOPLE TO PARTICIPATE WITHOUT THE BURDEN OF FULLY
 13 PARTICIPATING, AS MR. PATTERSON SUGGESTED.
 14 SO PEOPLE WHO FIT INTO THAT CATEGORY, WE THINK
 15 THOSE PEOPLE -- WE DON'T GAIN ADDITIONAL INFORMATION BY
 16 DOING AN INITIAL DISCLOSURE. SO IT'S REALLY THAT DE MINIMUS
 17 GROUP THAT FITS WITHIN THAT.
 18 THE COURT: NOW, FOR ALL OF THESE RIPARIANS WHO ARE
 19 GOING TO LET YOU DEFAULT THEM, IN A PERFECT WORLD YOU'D
 20 LIKE INITIAL DISCLOSURES? OR YOU DON'T CARE BECAUSE
 21 THEY'RE RIPARIAN AND YOU DON'T NEED DISCLOSURES AS TO
 22 RIPARIANS?
 23 ARE THE DISCLOSURES ONLY FOR ONLY GROUNDWATER
 24 TAKES?
 25 MR. HAGERTY: WELL, EVERYONE CURRENTLY IS REQUIRED,
 26 WHO HAS APPEARED IN THE ACTION, TO PROVIDE THE INITIAL
 27 DISCLOSURES. AND THERE IS A PART OF THE INITIAL
 28 DISCLOSURE THAT SPEAKS TO SURFACE RIGHTS, AS WELL.

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1 THE COURT: SO HOW DO YOU DEAL, AS A PRACTICAL MATTER,
 2 WITH THE PEOPLE WHO HAVE CHOSEN TO LET THEMSELVES GO INTO
 3 DEFAULT? WHAT LUCK ARE YOU GOING TO HAVE GETTING INITIAL
 4 DISCLOSURES FROM SOMEBODY WHO'S JUST BEEN --
 5 MR. HAGERTY: I'M SORRY, YOUR HONOR, IT'S ONLY THE
 6 PARTIES THAT ARE REQUIRED TO PROVIDE -- THOSE WHO HAVE
 7 APPEARED ARE REQUIRED TO PROVIDE INITIAL DISCLOSURES.
 8 THE COURT: AND THAT'S BY STATUTE THEORETICALLY?
 9 MR. HAGERTY: YES, YOUR HONOR.
 10 THE COURT: AND AS TO GROUNDWATER, THEN, EITHER THEY
 11 GOT NAMED BECAUSE YOU SAW FIT TO NAME THEM OR THEY CAME TO
 12 COURT ON THEIR OWN ACCORD IN RESPONSE TO THE NOTICE PROCESS,
 13 BUT NOW THAT THEY CAME TO COURT THEY'VE SUBJECTED THEMSELVES
 14 TO INITIAL DISCLOSURES UNLESS THEY FLIP AROUND AND ABSENT
 15 THEMSELVES BY SIGNING THE STIPULATION.
 16 MR. HAGERTY: CORRECT, YOUR HONOR. YES.
 17 THE COURT: BUT HOW DO YOU THEN FIND THE SECOND GROUP
 18 THAT YOU THINK IS DE MINIMIS ENOUGH THAT YOU WOULD INDULGE
 19 THEM IN A WAIVER OF INITIAL DISCLOSURE? IF THEY SIGN A
 20 STIPULATION THAT'S EASY.
 21 MR. HAGERTY: RIGHT.
 22 THE COURT: HOW DO YOU FIND THE SECOND UNIVERSE?
 23 MR. HAGERTY: WELL, WE'RE NOT LOOKING FOR THAT UNIVERSE,
 24 YOUR HONOR. IF PARTIES APPROACH US --
 25 THE COURT: IF THEY COME AND BEG, THEN MAYBE --
 26 MR. HAGERTY: WELL, NOT BEG, YOUR HONOR, BUT WE'RE
 27 WILLING TO WORK WITH PARTIES, BECAUSE THERE'S CERTAIN
 28 PARTIES THAT THEIR INFORMATION WILL ULTIMATELY BE CRITICAL.

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1 THERE ARE A LOT OF PARTIES WHO ARE IMPORTANT
 2 BECAUSE, AS I THINK IT'S MR. GIBSON, YOU KNOW, MAY WANT
 3 TO DO SOMETHING IN THE FUTURE, SO THAT HAVING THE JUDGMENT
 4 APPLY TO THEM IS IMPORTANT.
 5 BUT WE'RE NOT ASKING OF THEM AT THIS TIME ANYTHING.
 6 AND SO WE DON'T THINK --
 7 THE COURT: YOU THINK YOU'RE GOING TO STICK IT TO
 8 MR. GIBSON, FRANKLY, BY IN REM JURISDICTION REGARDLESS OF
 9 HIS INDIVIDUAL PARTICIPATION IN THE CASE. BECAUSE YOU WILL
 10 HAVE HAD CONTROL THROUGH JUDGMENT OF THE GROUNDWATER UNDER
 11 HIS LOT AND ELSEWHERE. BUT THE IN REM JURISDICTION IS ALL
 12 THAT YOU NEED TO SUBJECT HIM IN THE FUTURE TO A PROCESS
 13 HE DOESN'T WANT TO HAVE TO FOLLOW.
 14 MR. HAGERTY: IF THERE'S HOPEFULLY A JUDGMENT BASED
 15 ON IN REM JURISDICTION, WE BELIEVE, AS IT'S PLED, THAT IT
 16 APPLIES TO THE ENTIRE WATERSHED. AND SO -- AND THE BASINS.
 17 AND SO, YES. I MEAN, WE WOULDN'T USE THOSE TERMS,
 18 AND THAT'S CERTAINLY NOT THE INTENT, BUT HE WOULD BE BROUGHT
 19 INTO THE CASE WHETHER HE'S IN IT OR SUBJECT TO THE NOTICE
 20 THROUGH THE IN REM JURISDICTION.
 21 THE COURT: SO ALTHOUGH WE HAVE ANOTHER DATE ON JULY
 22 19TH, I WANT TO BRING YOU BACK SOONER TO SEE WHERE THINGS
 23 ARE PROCEEDING. AND ALSO --
 24 MR. HAGERTY: AND WE'RE COMING IN ON THE 30TH, YOUR
 25 HONOR, FOR THE OSC.
 26 THE COURT: WELL, THAT PART IS TRUE.
 27 MR. HAGERTY: YES.
 28 THE COURT: ALSO, JULY 19TH CONFLICTS AT 1:30. I COULD

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1 TALK TO YOU AT 3:00.
 2 SO FIRST, THE PROCEEDINGS ON JULY 19TH ARE RESET
 3 FROM 1:30 TO 3:00 P.M. WE WILL BE BACK ON JUNE 30TH AT
 4 9:30 I BELIEVE TO DEAL WITH YOUR OSC.
 5 THAT WAS THE TIME I GAVE YOU, WASN'T IT?
 6 MR. HAGERTY: YES, YOUR HONOR.
 7 THE COURT: OKAY.
 8 MR. HAGERTY: JUNE 30TH, 9:30.
 9 THE COURT: AND THERE'S PART OF ME THAT THINKS THAT
 10 ALTHOUGH THAT'S FINE FOR BANGING OUT YOUR ORDER TO PUBLISH
 11 THAT, BUT IN TERMS OF TRYING TO FIGURE OUT A DISCOVERY PLAN
 12 FOR THE FEBRUARY TRIAL JUNE 30TH IS JUST LIKE THE DAY AFTER
 13 TOMORROW PRACTICALLY AND JUST TOO SOON.
 14 I WAS GOING TO PROPOSE TO BRING YOU FOLKS BACK
 15 ON JULY 6TH TO SEE WHAT IF ANY PROGRESS YOU'RE MAKING ON
 16 STARTING TO FIGURE OUT A WAY TO NEGOTIATE ABOUT DISCOVERY,
 17 WHICH IS SORT OF A PROCESS QUESTION AS MUCH AS THE OUTCOME,
 18 YOU KNOW, WHERE YOU'RE NEGOTIATING WITH MS. JACOBSON AND
 19 MR. PATTERSON PRIMARILY, OR YOU'RE NEGOTIATING WITH
 20 MR. WHITMAN AND MR. OSIAS, OR YOU'RE NEGOTIATING WITH
 21 MS. BLOSS, THE GRIGSBYS, YOU KNOW, HOW IS THIS GOING DOWN --
 22 MR. HAGERTY: YOUR HONOR, MAY I --
 23 THE COURT: MAYBE YOU CAN ATTEMPT TO GET SOMETHING
 24 STARTED AND GIVE A REPORT ON JUNE 30TH, BUT I WOULD LIKE
 25 TO BRING YOU BACK ON JULY 6TH, ALSO AT 2:00 P.M.
 26 MR. HAGERTY: THAT WOULD WORK FOR US, YOUR HONOR. AND
 27 WE'RE ALSO HAPPY TO -- I MEAN, WE WILL MOVE IMMEDIATELY TO
 28 SET A MEET AND CONFER FOR EVERYONE WHO WANTS TO PARTICIPATE,

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1 LIKE WE'VE DONE BEFORE. AND, YOU KNOW, WE HOPE TO BE ABLE
 2 TO PUT SOMETHING TOGETHER FAIRLY QUICKLY.
 3 WE'RE ALWAYS HAPPY, IF THE COURT IS OKAY WITH
 4 IT AND THE PARTIES AGREE, YOU KNOW, WE CAN REPORT THROUGH
 5 THE MESSAGE BOARD AS WELL.
 6 THE COURT: WELL, THAT'S FINE. YOU'RE WELCOME TO USE
 7 THAT.
 8 I WILL MAKE CLEAR THAT I AM LIFTING THE STAY ON
 9 DISCOVERY FOR ALL MATTERS THAT ARE RELEVANT TO ADJUDICATING
 10 PHASE I. NOT ALL MATTERS TOTALLY, BUT MATTERS RELATED TO
 11 PHASE I.
 12 I AM WITHDRAWING THE TENTATIVE IN REGARD TO WHAT
 13 I SAID ABOUT MAKING EVERYBODY FILL OUT INITIAL DISCLOSURES
 14 AND LEAVE IT TO MR. MELNICK TO PERSUADE ME WHY I SHOULD BE
 15 SO FUSSY AS TO REQUIRE IT FROM EVERYBODY SINCE IT SEEMS TO
 16 BE BASICALLY MR. MELNICK AND MYSELF ARE THE ONLY PROPONENTS
 17 OF THIS, LAST TIME I COUNTED NOSES, AND LEAVE IT TO YOU TO
 18 TRY TO PERSUADE ME.
 19 BUT I'LL REVISIT THAT QUESTION ON JULY 6TH,
 20 BECAUSE BASICALLY I'M NOT GOING TO HOLD ANYBODY TO ACCOUNT
 21 FOR MISSING A JUNE 1 OR JUNE 15 DEADLINE WHETHER OR NOT
 22 THEY'VE GOT A FORMAL EXTENSION. AND I'M HEARING A LOT THAT
 23 TELLS ME I OUGHT TO BE GENTLE ON SMALL USERS, PARTICULARLY
 24 THOSE WHO HAVE SIGNED STIPULATIONS, SINCE IT SEEMS LIKE
 25 MR. HAGERTY'S PREPARED TO TRY TO DEVELOP WHATEVER DATA HE
 26 FEELS HE MAY NEED FOR 850(A) OR (B) THROUGH OTHER MEANS
 27 AND THE LACK OF INITIAL DISCLOSURES IS A HAZARD HE'S WILLING
 28 TO ACCEPT WHILE HE TRIES TO PROTECT THE CITY OF VENTURA'S

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1 PUBLIC RELATIONS WITH ITS UPHILL NEIGHBORS WHO ARE ROYALLY
 2 PISSED AT BEING CAUGHT UP IN THIS LITIGATION.
 3 OR SO IT SEEMS FROM SOME OF THE CORRESPONDENCE I
 4 GET.
 5 MR. HAGERTY: WE CONCUR THAT THAT'S -- I MEAN, TALKING
 6 ABOUT IT ON THE 6TH MAKES SENSE. AND AGAIN, OUR POSITION
 7 IS THERE ARE CERTAIN GROUPS THAT IT'S NOT NEEDED.
 8 THE COURT: AND WHAT I'D LIKE FOR THE 6TH WOULD BE A
 9 JOINT REPORT BY NOON ON FRIDAY, JULY 2, SERVED ON FILE &
 10 SERVEXPRESS AND FILED WITH THE CLERK OF THE COURT AT YOUR
 11 CONVENIENCE THEREAFTER. BUT GET IT SERVED BY NOON ON THE
 12 2ND.
 13 OTHER PEOPLE, WHETHER IT'S MR. OSIAS, MR. WHITMAN
 14 OR OTHERS, CAN FILE A UNILATERAL REPORT WITH YOUR STATEMENT
 15 SOMETIME IN ADVANCE OF JULY 6TH, TELLING ME WHERE WE'RE AT.
 16 I DON'T EXPECT TO BE BLUNT, BUT I'D LIKE TO HAVE A
 17 DISCOVERY PLAN. I HOPE YOU WILL HAVE AT LEAST FIGURED OUT
 18 I'VE GOT A PROCESS TO START THAT IS INCLUSIVE OF THOSE WHO
 19 WANT TO PARTICIPATE. AND IF YOU HAVE MADE ANY PROGRESS I'LL
 20 HEAR ABOUT IT, BUT I REALLY JUST WANT TO KNOW THAT YOU'VE
 21 GOT A PROCESS MODALITY TO TRY TO WORK OUT A DISCOVERY PLAN.
 22 THE STAY ON DISCOVERY IS LIFTED TODAY. I DON'T
 23 WANT ANY MOTION PRACTICE BEFORE WE HAVE ANY INFORMAL
 24 DISCOVERY CONFERENCES.
 25 BUT IF MR. WHITMAN WANTS TO START SERVING
 26 DISCOVERY, CONTENTION OR OTHERWISE, YOU'RE FREE TO DO SO,
 27 MR. WHITMAN. AND THE CITY OF VENTURA TO GIVE NOTICE.
 28 WHAT ELSE DO YOU NEED, MR. HAGERTY, IN TERMS OF

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1 CLARITY FROM THE COURT FOR PURPOSES OF NOTICE?
 2 MR. HAGERTY: THERE IS ONE OTHER ITEM TO ADDRESS, YOUR
 3 HONOR, WHICH IS, WE HAD SET THIS UP AND CREATED A PROCESS
 4 REGARDING THE LODGING OF THE PHYSICAL SOLUTION. WE HAVE
 5 THAT HERE TODAY.
 6 THE COURT: THE STATE SAYS NO. IT'S JUST A DRAFT.
 7 RIGHT?
 8 MR. HAGERTY: WELL, LET'S TALK ABOUT THAT, BECAUSE
 9 I DON'T THINK THE STATE SAYS NO, I THINK THE STATE SAYS
 10 IT'S NOT A GOOD IDEA. BUT, YOU KNOW, MR. MELNICK CAN
 11 CLARIFY WHETHER HE'S ACTUALLY OBJECTING OR NOT.
 12 MR. MELNICK: YOUR HONOR, I'M NOT IN A POSITION TO
 13 OBJECT TO IT BECAUSE YOU WANT TO SEE THIS. I UNDERSTAND
 14 THAT. I DON'T THINK THERE'S ANY RULES THAT PROHIBIT THIS.
 15 BUT IT'S JUST --
 16 THE COURT: WELL, IF IT'S IMPRUDENT, I WANT TO BE TOLD
 17 IT'S IMPRUDENT.
 18 MR. MELNICK: YES, I BELIEVE IT'S IMPRUDENT.
 19 THE COURT: AND THE STATE IS TELLING ME IT'S IMPRUDENT.
 20 MR. MELNICK: I AGREE, YOUR HONOR. BECAUSE THIS IS A
 21 SETTLEMENT OFFER.
 22 THE COURT: TO WHICH SOME PEOPLE HAVE AGREED AND OTHERS
 23 HAVEN'T.
 24 MR. MELNICK: VERY FEW PEOPLE HAVE AGREED. AND WE HAVE
 25 A --
 26 THE COURT: WE KNOW MR. COSGROVE'S CLIENT HASN'T.
 27 CORRECT, MR. COSGROVE?
 28 MR. COSGROVE: THAT IS CORRECT, YOUR HONOR.

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1 THE COURT: AND MR. PATTERSON CLIENTS HAVEN'T AGREED.
 2 CORRECT, MR. PATTERSON?
 3 MR. PATTERSON: THAT'S CORRECT, YOUR HONOR.
 4 THE COURT: I'M WILLING TO WAIT AT LEAST TILL JUNE
 5 30TH OR JULY 6TH TO SEE IT, FOR THE VERY FACT THAT IT IS
 6 MORE IN THE NATURE OF AN OFFER THAN A CONSENSUS DOCUMENT.
 7 MR. HAGERTY: YOUR HONOR, WE DON'T BELIEVE THAT IT
 8 IS IN THE NATURE OF A SETTLEMENT OFFER. I MEAN, THIS IS
 9 THE DOCUMENT THAT IF WE HAD TRIAL TODAY WE WOULD PUT FORTH
 10 AND ASK THE COURT TO RULE ON.
 11 THE COURT: WHICH LARGE CONSUMPTIVE USERS HAVE SAID
 12 THEY LIKE IT.
 13 MR. HAGERTY: THE PROPOSING PARTIES, YOUR HONOR. SO
 14 THE CITY, TAYLOR RANCH WHO'S HERE, MINORS OAKS WATER
 15 DISTRICT, VENTURA WATER DISTRICT, AND THE RANCHO MATILJA
 16 MUTUAL WATER COMPANY ARE THE FIVE PARTIES WHO SAID "WE WANT
 17 THIS."
 18 THE COURT: AND THOSE FIVE PARTIES USE WHAT PERCENTAGE
 19 OF ALL THE GROUNDWATER, ROUGH GUESSTIMATE?
 20 MR. HAGERTY: THAT'S A HARD QUESTION, YOUR HONOR. I
 21 MEAN --
 22 THE COURT: TWO PERCENT? FIVE PERCENT?
 23 MR. HAGERTY: THEY ARE FIVE SIGNIFICANT USERS OF WATER
 24 WITHIN THE WATERSHED. THEY'RE FIVE OF THE LARGER USERS
 25 WITHIN THE WATERSHED.
 26 THE COURT: WHICH IS THE LARGEST USER?
 27 MR. HAGERTY: CASITAS. AND I MEAN, USER IS MAYBE
 28 A QUESTION. THE PARTY THAT DIVERTS MOST WATER FROM THE

70	<p>1 VENTURA RIVER IS CASITAS. THEY ALSO TAKE GROUNDWATER AT 2 CERTAIN PLACES. 3 THE COURT: WHO IS THE SECOND BIGGEST USER? 4 MR. HAGERTY: THAT WOULD LIKELY BE THE CITY OF VENTURA. 5 THE COURT: WHO'S THE THIRD BIGGEST USER? 6 MR. HAGERTY: LIKELY THE TWO WATER DISTRICTS. 7 THE COURT: WITH WHOM YOU ARE COOPERATING -- 8 MR. HAGERTY: YES. 9 THE COURT: -- OR THE ONES THAT ARE OPPOSING? 10 MR. HAGERTY: YES. 11 THE COURT: SO YOU'VE GOT TWO, BECAUSE THAT'S YOUR 12 CLIENT, AND THREE AND FOUR, BUT NOT ONE. 13 MR. HAGERTY: CORRECT, YOUR HONOR. 14 THE COURT: AND WHO'S FIVE AND SIX? 15 MR. HAGERTY: TAYLOR RANCH IS A BIG USER. OBVIOUSLY 16 MR. PATTERSON'S CLIENTS ARE SOME OF THE LARGER AGRICULTURAL 17 USERS. THOSE ARE THE BIGGER PARTIES THAT I'VE MENTIONED. 18 THE COURT: BUT DO YOU THINK YOU'VE GOT A QUARTER OF 19 THE USERS IN TERMS OF VOLUME IN THIS DEAL ALREADY? OR 20 HALF? 30 PERCENT? 21 MR. HAGERTY: WE HAVE A SIGNIFICANT AMOUNT, YOUR HONOR. 22 THE COURT: THAT'S TOO VAGUE. 23 MR. HAGERTY: WELL, I MEAN, AGAIN, I AM JUST STANDING UP 24 TO SAY THAT WE DON'T CONSIDER THIS TO BE A SETTLEMENT OFFER. 25 WE CONSIDER THIS TO BE TO DOCUMENT WE'RE READY TO SUBMIT TO 26 THE COURT. AND WE'RE ALWAYS WILLING TO -- 27 THE COURT: WELL, UNDER 850(A), IN YOUR VIEW OF IT, 28 MR. MELNICK WOULDN'T LET YOU DO IT. YOU THINK THAT IF YOU</p>	72	<p>1 COURT SOME CONTEXT OF WHAT'S GOING ON. AND AGAIN, WITH 2 THE SAME UNDERSTANDING THAT THIS BEING AN EVOLVING DOCUMENT. 3 BUT IT CERTAINLY WOULD -- I DON'T VIEW IT AS A 4 SETTLEMENT DOCUMENT. I VIEW IT AS A PROPOSED JUDGMENT. 5 AND, YOU KNOW, I THINK IT WOULD BE VERY USEFUL FOR 6 THIS COURT TO REVIEW IT IN ORDER TO KIND OF GET A CONTEXT, 7 A CONTEXT OF WHAT'S GOING ON, AND TO FIGURE OUT SOME OF THE 8 WAYS, AS THE COURT'S SUGGESTED, TO TRY TO PUSH PEOPLE TOWARD 9 SOME SORT OF RESOLUTION. 10 THE COURT: THANK YOU. 11 IS THERE ANYBODY OTHER THAN MR. MELNICK WHO WANTS 12 TO BE HEARD THAT IT'S IMPRUDENT FOR THE COURT TO ACCEPT 13 THE LOGIC OF THIS PHYSICAL SOLUTION IN ITS CURRENT FORMAT? 14 MR. GIBSON: YES, YOUR HONOR. THIS IS KELTON GIBSON 15 AGAIN. AND I OBJECTED TO IT. I FILED AN OBJECTION, AND 16 I WILL SUBMIT ON MY MOVING PAPERS OBJECTING TO THE PHYSICAL 17 SOLUTION. 18 THE NOTICE THAT WENT OUT ON IT WAS UNCLER AS TO 19 WHAT THE PURPOSE OF THE FILING WAS. AT LEAST TO MY READING 20 OF IT IT SUGGESTED THAT IT WAS ONLY FOR THE COURT TO SEE 21 WHAT WAS GOING ON. 22 I UNDERSTOOD IT TO BE A MOTION IN EFFECT FOR THEM 23 TO HAVE THE COURT SIGN OFF ON IT. AND SO -- 24 THE COURT: IT AIN'T THAT. IT DEFINITELY ISN'T THAT. 25 SO MR. GIBSON, JUST TO CLARIFY, THE QUESTION ISN'T 26 WHETHER I SEE IT AND LIKE IT, THE QUESTION IS WHETHER I EVEN 27 SHOULD SEE IT. 28 DO YOU STILL OBJECT TO MY EVEN SEEING IT?</p>
71	<p>1 CAN ACCEPT THE BURDEN OF PROOF YOU CAN TRY TO PUSH THIS 2 THROUGH IN THE FACE OF CRITICS. 3 MR. HAGERTY: CORRECT. WE WOULD TRY THE CASE AND 4 WE BELIEVE THAT THERE'S EVIDENCE TO SUPPORT THE COURT'S 5 ENTERING THE PHYSICAL SOLUTION. 6 THE COURT: WERE THE BURDEN OF PROOF ON YOUR CLIENT. 7 MR. HAGERTY: AS CURRENTLY SITUATED, YES. 8 THE COURT: WOULD GIVING IT TO ME STIMULATE SETTLEMENT 9 TALKS OR IMPEDE THEM? 10 MR. HAGERTY: YOUR HONOR, YOUR HONOR IS THE ONLY ONE 11 WHO HASN'T SEEN IT, AND YOU'RE GETTING OBJECTIONS TO A 12 DOCUMENT YOU HAVEN'T SEEN. 13 THE COURT: WHICH I DON'T BOTHER TO READ BECAUSE THEY'RE 14 POINTLESS. SO. . . 15 MR. HAGERTY: AND THAT'S FINE. WE KNOW THAT THE COURT 16 WOULD LIKE TO SEE IT. WE BELIEVE THAT IT PROVIDES IMPORTANT 17 CONTEXT TO EVERYTHING THAT THE COURT HAS BEEN HEARING FOR 18 THE LAST YEAR PLUS. 19 THE COURT: SO MELNICK SAYS NO. 20 MR. COSGROVE, SHOULD I SEE IT OR NOT? 21 MR. COSGROVE: WE BELIEVE THAT THERE'S NO HARM IN HAVING 22 THE COURT TAKE A LOOK AT IT IN ITS CURRENT ITERATION, WITH 23 THE UNDERSTANDING, AND IT HAS TO BE A SERIOUS ONE, THAT THIS 24 IS AN EVOLVING DOCUMENT AND THAT -- 25 THE COURT: THANK YOU. 26 MR. PATTERSON, SHOULD THE COURT SEE IT OR NOT? 27 MR. PATTERSON: YOUR HONOR, I THINK IT WOULD BE VERY 28 USEFUL FOR THE COURT TO SEE THIS DOCUMENT, TO GIVE THE</p>	73	<p>1 MR. GIBSON: YES. YES. AND I'LL ELABORATE. 2 THE COURT: IF IT'S ILL-ADVISED, AND I SHOULD LISTEN TO 3 YOUR OBJECTION THAT IT'S ILL-ADVISED, WHY SHOULDN'T I READ 4 IT BEFORE I READ YOUR OBJECTION THAT IT'S AN ILL-ADVISED 5 PHYSICAL SOLUTION? 6 MR. GIBSON: I'LL SUBMIT THE MATTER. 7 THE COURT: THANK YOU. REMINDS ME OF DEPENDENCY COURT. 8 ANYBODY ELSE WHO WISHES TO BE HEARD IN OPPOSITION 9 TO THE LODGING OF THE PHYSICAL SOLUTION IN ITS CURRENT FORM? 10 MR. KATZ: YOUR HONOR, ON COURTCONNECT, THIS IS ERIC 11 KATZ, ATTORNEY FOR THE CALIFORNIA DEPARTMENT OF FISH & 12 WILDLIFE. 13 WE JOIN MR. MELNICK'S CONCERN ABOUT THE IMPRUDENCE 14 OF DOING SO NOW. 15 YOU KNOW, JUST TO ELABORATE, OUR UNDERSTANDING 16 IS, OR HAD BEEN UP UNTIL JUST A FEW MOMENT AGO, THAT THE 17 PROPOSED JUDGMENT WAS A WORK-IN-PROGRESS DOCUMENT AND THAT 18 THE CITY AND THE OTHER PROPOSING PARTIES WERE OPEN TO 19 FURTHER DISCUSSIONS AND NEGOTIATIONS SUCH THAT THE DOCUMENT, 20 IF THOSE DISCUSSIONS AND NEGOTIATIONS ARE SUCCESSFUL, 21 MAY LOOK DIFFERENT IN SMALL OR LARGE WAYS FROM WHAT THE 22 CURRENT ITERATION OF THE DOCUMENT IS. 23 IF THAT'S NOT THE CASE, THEN THE PROPOSED JUDGMENT 24 IS ESSENTIALLY FINAL, FROM THE CITY'S POINT OF VIEW, THAT, 25 YOU KNOW, MAY CHANGE THE CALCULUS. 26 BUT OUR UNDERSTANDING WAS IS THAT IT WAS IN 27 PROGRESS, THE CITY WAS OPEN TO CHANGING IT. 28 AND SO IF THE CITY WERE TO SUBMIT ITS CURRENT</p>

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1 VERSION TODAY AND THEN THE PARTIES GO BACK AND NEGOTIATE
 2 MORE AND THE DOCUMENT CHANGES TO REFLECT CONCESSIONS MADE
 3 BY BOTH SIDES, YOU KNOW, THEN WE'RE KIND OF IN A SERIAL
 4 SUBMISSION TO THE COURT WITH THE COURT ESSENTIALLY SEEING
 5 THE PROGRESS OF SETTLEMENT DISCUSSIONS.
 6 AND SO WE THINK TO THE EXTENT THAT THE NEGOTIATIONS
 7 ARE ONGOING AND THERE IS AN INTEREST TO CONTINUE THAT AND
 8 REVISE THE DOCUMENT IN SOME WAY, THAT THE PARTIES DO THAT
 9 IN NORMAL WAYS OUTSIDE OF THE COURT. IF NEGOTIATIONS ARE
 10 OVER, THEN MAYBE THE CALCULUS IS DIFFERENT.
 11 THE COURT: WELL, I CERTAINLY HOPE NEGOTIATIONS AREN'T
 12 OVER, AND SINCE I'M GOING TO BE BUSY TRYING TO RECREATE
 13 BETWEEN NOW AND JUNE 30TH I WILL TAKE THE QUESTION UP ON
 14 JUNE 30TH AND POLITELY DECLINE MR. HAGGERTY'S OFFER THIS
 15 AFTERNOON BUT BE READY TO DEAL WITH IT ON JUNE 30TH.
 16 AND HOPEFULLY YOU CAN CLARIFY, MR. HAGERTY, IF
 17 THERE IS OR IS NOT A CONTINUING INTEREST IN NEGOTIATING
 18 FURTHER CHANGES WITH THE STATE AND THE OTHER PARTIES.
 19 AND THOSE ARE TWO DIFFERENT BUT VERY IMPORTANT
 20 THINGS. IF FISH & WILDLIFE OR WATER RESOURCES ARE THE
 21 LAST PARTIES CONTESTING THIS, IT'S STILL GOING TO BE A VERY
 22 IMPORTANT VOICE IN DISSENT. IF MR. COSGROVE'S CLIENT IS
 23 OPPOSING IT OR MR. PATTERSON'S SEVERAL CLIENTS OPPOSING
 24 IT, THAT'S EVEN MORE CONCERNING BECAUSE THEY'RE MAJOR
 25 CONSUMPTIVE USERS.
 26 MR. HAGERTY: I THINK, YOUR HONOR, THE WAY YOU JUST
 27 SAID IT WAS EXACTLY RIGHT, AND THERE'S TWO DIFFERENT
 28 THINGS HERE. YES, NEGOTIATIONS, DISCUSSIONS WILL CONTINUE

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1 UNTIL THERE'S A TRIAL, IF WE GET THERE; OR IF NOT, A
 2 SETTLEMENT THAT'S PROPOSED AND EVERYONE AGREES ON.
 3 SO MR. KATZ'S --
 4 THE COURT: WELL MAYBE NOT EVERYBODY, BUT ENOUGH PEOPLE.
 5 MR. HAGERTY: ENOUGH PEOPLE.
 6 HE'S MISUNDERSTANDING OUR POSITION WITH REGARD TO
 7 THE FURTHER DISCUSSIONS. BUT AT THE SAME TIME WHAT I'VE
 8 SAID IS, IF WE WERE ACTUALLY IN TRIAL TODAY THIS IS OUR
 9 PROPOSED JUDGMENT.
 10 THE COURT: YOU ARE PREPARED TO DEFEND IT.
 11 MR. HAGERTY: YES.
 12 THE COURT: OKAY. THAT I UNDERSTAND.
 13 BUT I'M NOT GOING TO TAKE IT TODAY. I'LL TAKE
 14 UP THE TOPIC ON JUNE 30TH, TAKE IT UP ON JULY 6TH IF I
 15 HAVEN'T TAKEN IT ALREADY.
 16 MR. HAGERTY: THAT'S PERFECT, YOUR HONOR. THANK YOU.
 17 THE COURT: OKAY. AND YOU WERE WELCOME IN COURT HERE
 18 TODAY AND YOU'RE WELCOME BACK ON THE 30TH AND JULY 6TH.
 19 AND IF YOU'D LIKE TO APPEAR VIRTUALLY, LIKE
 20 MR. PATTERSON AND OTHERS, THAT'S FINE TOO.
 21 MR. MELNICK: YOUR HONOR, COULD I MAKE A REQUEST?
 22 THE COURT: GO AHEAD.
 23 MR. MELNICK: COULD WE RESERVE THE PHYSICAL SOLUTION
 24 DISCUSSION FOR THE 6TH? BECAUSE I'M NOT SURE WHETHER
 25 I'M GOING TO BE ABLE TO PARTICIPATE ON THE 30TH.
 26 THE COURT: THE 6TH IS FINE.
 27 MR. MELNICK: OKAY. THANK YOU, YOUR HONOR.
 28 THE COURT: SO WE'LL TAKE IT UP ON JULY 6TH.

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1 SO YOU'RE GIVING NOTICE, MR. HAGERTY. DO YOU
 2 NEED ANYTHING ELSE FOR CLARITY, MR. PISANO OR MR. HAGERTY?
 3 MR. HAGERTY: NO, YOUR HONOR. I THINK WE'RE GOOD.
 4 RIGHT?
 5 MR. PISANO: YES. YES. THE HEARING IS ON JULY 6TH.
 6 MR. OSIAS: YOUR HONOR, A QUESTION ABOUT THE PHYSICAL
 7 SOLUTION DEFERRAL?
 8 THE COURT: YES.
 9 MR. OSIAS: THIS IS MR. OSIAS. I APOLOGIZE.
 10 THE COURT: GO AHEAD.
 11 MR. OSIAS: BUT I DID NOT FILE IN RESPONSE TO THE
 12 PROPOSAL ANY POSITION FOR TODAY. I'VE LEARNED SOME THINGS
 13 TODAY.
 14 IS THE DEADLINE FOR FILING SOMETHING EXTENDED,
 15 THEREFORE, BECAUSE IT'S GOING TO BE TAKEN UP ON JULY 6TH,
 16 OR IS IT NOT?
 17 THE COURT: WELL, I CONFESS THAT I AM A LITTLE BIT
 18 CLUELESS OF WHAT NOTICE WAS GIVEN TO PEOPLE LIKE MR. OSIAS
 19 OF SOMETHING SPECIFIC TO THE PHYSICAL SOLUTION THAT WAS
 20 PROMPTING PEOPLE TO HAVE TO DO SOMETHING OR NOT DO
 21 SOMETHING.
 22 MR. HAGERTY: YES, YOUR HONOR. SO AT THE LAST STATUS
 23 CONFERENCE WE SET UP A PROCESS THAT WAS IN THE NOTICE OF
 24 RULING THAT PROVIDED THAT WE WOULD PROMULGATE OR RELEASE
 25 TO ALL PARTIES A REVISED VERSION OF THE PHYSICAL SOLUTION,
 26 WHICH OCCURRED, AND WHEN THAT NOTICE OF DISSEMINATION WAS
 27 PUT OUT WE HAD SPECIFICALLY SPOKEN AT THE LAST STATUS
 28 CONFERENCE THAT PARTIES WHO OBJECT TO THE COURT RECEIVING

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1 THE DOCUMENT -- NOT TO THE SUBSTANCE, BUT TO THE ACTUAL
 2 RECEIVING OF THE DOCUMENT -- WERE TO HAVE FILED WRITTEN
 3 OBJECTIONS.
 4 THE ONLY PARTY WHO FILED ANYTHING WAS THE STATE
 5 AGENCIES IN THEIR REPORT, WHICH WE DIDN'T --
 6 THE COURT: AND I WAS AWARE OF THAT. SO THAT CAME TO
 7 MY ATTENTION.
 8 MR. HAGERTY: YEAH. BUT IF MR. OSIAS WISHES TO SUBMIT
 9 WRITTEN OBJECTIONS TO THE COURT RECEIVING IT, WE WELCOME
 10 THAT, BECAUSE WE DO NOT WISH TO IN ANY WAY TAIN'T OR HAVE THE
 11 COURT ACCEPT SOMETHING THAT THERE'S A LEGITIMATE REASON NOT
 12 TO. WE DON'T BELIEVE THAT THERE IS, BUT IF SOMEBODY --
 13 THE COURT: SO MR. OSIAS, BETWEEN NOW AND JULY 6TH IF
 14 YOU DON'T WANT ME TO SEE THE THEN-EXISTING PROPOSED PHYSICAL
 15 SOLUTION AS IT EXISTS ON JULY 6TH, FEEL FREE TO FILE A
 16 WRITTEN OBJECTION IN THIS DOCKET.
 17 LIKEWISE, MR. GIBSON, IF YOU WISH TO OBJECT TO MY
 18 EVEN SEEING IT, DO FEEL FREE TO FILE SOMETHING BEFORE JULY
 19 6TH.
 20 BUT PLEASE UNDERSTAND ON JULY 6TH I AM IN NO WAY,
 21 SHAPE OR FORM IN A POSITION TO GIVE A THUMBS UP OR THUMBS
 22 DOWN TO THE FACTUAL AND LEGAL VALIDITY OF THIS PROPOSED
 23 PHYSICAL SOLUTION. THAT'S MONTHS AWAY, AFTER WE CONDUCT
 24 A PHASE I TRIAL, AND PROBABLY EVEN AFTER WE CONDUCT A SECOND
 25 TRIAL AFTER THE PHASE I TRIAL.
 26 SO AS FAR AS I'M CONCERNED, THE DOCUMENTATION I'M
 27 GETTING FROM VARIOUS PEOPLE THAT OBJECT TO THE PHYSICAL
 28 SOLUTION IS PREMATURE IN EXTREME, WHICH IS WHY I CHOOSE

1 NOT TO READ IT AS I TRIAGE THE EFFECTIVE USE OF MY TIME
2 AND AVOID CLUTTERING MY MIND WITH THINGS THAT DO ME NO GOOD.
3 SO IF YOU WANT TO FILE THE PAPERS YOU CAN FILE
4 THE PAPERS, BUT THE JUDGE AIN'T READING THEM.
5 MR. OSIAS: AND I UNDERSTOOD, AND MR. HAGERTY DID
6 ACCURATELY DESCRIBE, THE PROCEDURE THAT HE HAD INFORMED
7 US OF. AND I'M NOT SURE IF I'LL FILE ANYTHING OR NOT.
8 I JUST DIDN'T KNOW IF I WAS ALLOWED TO.
9 THE COURT: YOU ARE ALLOWED TO.
10 MR. OSIAS: ALL RIGHT. I APPRECIATE THE CLARIFICATION.
11 THE COURT: OKAY. ANY OTHER QUESTIONS BEFORE WE RECESS?
12 OUR NEW PLATFORM SEEMED TO WORK PRETTY WELL, WHICH
13 IS GOOD TO KNOW, IN TERMS OF WE'VE MOVED AWAY FROM THE OLD
14 VENDOR TO MICROSOFT TEAMS, AND THIS VIDEO SEEMS TO BE MUCH
15 MORE ROBUST. THERE'S SOME FORMAT CHALLENGES, BUT IT
16 OTHERWISE SEEMS TO BE QUITE FUNCTIONAL FOR THIS LARGE GROUP
17 OF LAWYERS, AND SO THAT'S GOOD TO KNOW.
18 ALL RIGHT. WITH THAT, YOU'RE FREE TO GO. BYE
19 FOLKS.
20 RESPONSE: THANK YOU, YOUR HONOR.
21
22 (AT 3:55 P.M., THE PROCEEDINGS WERE ADJOURNED)
23 ---
24
25
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27
28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT 10 HON. WILLIAM F. HIGHBERGER, JUDGE
4
5 SANTA BARBARA CHANNELKEEPER, A)
6 CALIFORNIA NON-PROFIT CORPORATION,)
7)
8 PLAINTIFF,)
9)
10 VS.) CASE NO. 19STCP01176
11)
12 STATE WATER RESOURCES CONTROL BOARD,)
13 ETC., ET AL.,)
14)
15 DEFENDANTS.)
16)
17)
18)
19)
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28)

1 I, TIMOTHY J. MCCOY, CSR NO. 4745, OFFICIAL
2 REPORTER PRO TEMPORE OF THE SUPERIOR COURT OF THE STATE OF
3 CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY
4 THAT THE FOREGOING PAGES, 1 THROUGH 78, INCLUSIVE, COMPRISE
5 A FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD
6 IN THE ABOVE-ENTITLED MATTER ON MONDAY, JUNE 21, 2021.
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DATED THIS 25TH DAY OF JUNE 2021.



TIMOTHY J. MCCOY, CSR NO. 4745
OFFICIAL REPORTER PRO TEMPORE
LOS ANGELES SUPERIOR COURT

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