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12 Attorneys for Plaintiff
13 CITY OF CLAREMONT

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES
16

17 CITY OF CLAREMONT, a general law city,
18 Plaintiff,

19 v.

20 GOLDEN STATE WATER COMPANY, a
California corporation; DOES 1 - 1000;
21 AND ALL PERSONS UNKNOWN
22 CLAIMING AN INTEREST IN THE
PROPERTY,

23 Defendants.
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25
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Case No. BC566125
Assigned to Judge Richard Fruin, Dept. 15

**CITY OF CLAREMONT'S OBJECTION
TO [PROPOSED] JUDGMENT**

First Amended Complaint Filed: June 24, 2015
Right to Take Trial Date: June 14, 2016

1 The City of Claremont objects to the [Proposed] Judgment in its entirety and specifically
2 as follows:

3 1. The City generally objects to the Court's ruling. The City has prepared an
4 alternative order overruling Golden State Water Company's objections to the City's right to take,
5 attached here as Exhibit A.

6 2. Following a right to take objection decided against the plaintiff, the proper
7 procedural step is dismissal of the proceeding by order, not by judgment. (Code Civ. Proc. §
8 1260.120(c).) Judgment for eminent domain purposes "means the judgment determining the right
9 to take the property by eminent domain and fixing the amount of compensation." (Code Civ.
10 Proc. § 1235.130.) By definition, there is no judgment for a dismissal of an eminent domain
11 action. This point is made explicitly in Code of Civil Procedure section 1260.120(c):

12 "If the court determines that the plaintiff does not have the right to
13 acquire by eminent domain any property described in the
14 complaint, it shall order either of the following:

15 (1) Immediate dismissal of the proceeding as to that property.

16 (2) Conditional dismissal of the proceeding ..."
(Emphasis added.)

17 Therefore, there should only be an order of dismissal, not a judgment.

18 3. The City objects to the following sentence: "That plaintiff City of Claremont does
19 not have the right to take any of the property it seeks to take from defendant Golden State Water
20 Company in this proceeding and, therefore, the City of Claremont shall take nothing pursuant to
21 its First Amended Complaint on file herein." This language suggests that res judicata would
22 apply, potentially barring the City from ever condemning the water system in the future. Such a
23 ruling would violate the separation of powers, causing the City to lose its sovereign powers
24 inherent in government. The City proposes the following revisions: "*The First Amended*
25 *Complaint of the City of Claremont shall be, and hereby is, dismissed.*" The City has prepared an
26 alternative order dismissing the First Amended Complaint, attached here as Exhibit B.

27 4. The City objects to the following sentence: "Pursuant to Code Civ. Proc.
28 §1268.610, defendant Golden State Water Company shall recover from the City of Claremont its

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litigation expenses and costs in the amount of \$ __.” The City suggests the following: “*The Court reserves jurisdiction on litigation expenses.*” The City has prepared an alternative order dismissing the First Amended Complaint, attached here as Exhibit B.

Dated: November 13, 2016

BEST BEST & KRIEGER LLP

By: *Kendall H. MacVey*
KENDALL H. MacVEY
JOHN HOLLOWAY
CHRISTOPHER M. PISANO
Attorneys for Plaintiff
CITY OF CLAREMONT

EXHIBIT A

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11 Attorneys for Plaintiff
12 CITY OF CLAREMONT

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

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18 Plaintiff,
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CLAIMING AN INTEREST IN THE
PROPERTY,
22
23 Defendants.

Case No. BC566125
Assigned to Judge Richard Fruin, Dept. 15

**[Proposed] ORDER DENYING GOLDEN
STATE WATER COMPANY'S
OBJECTIONS TO THE RIGHT TO TAKE**

First Amended Complaint Filed: June 24, 2015
Right to Take Trial Date: June 14, 2016

1 This eminent domain proceeding came on for trial by the Court pursuant to Code Civ.
2 Proc. §§1260.110 et seq. on the objections asserted by defendant Golden State Water Company to
3 the right to take. Beginning on June 14, 2016 and ending on August 11, 2016, the Court heard
4 opening statements, received testimony and documentary evidence, and heard presentations and
5 final argument of counsel . Plaintiff City of Claremont was represented by Kendall MacVey, John
6 H. Holloway and Christopher Pisano of Best Best & Krieger LLP. Defendant Golden State Water
7 Company was represented by George M. Soneff, Edward G. Burg, and Dinesh R. Badkar of
8 Manatt, Phelps & Phillips, LLP.

9
10 Based on the evidence received at trial and the Statement of Decision issued by the Court
11 in this action, IT IS HEREBY ORDERED:

12 Plaintiff City of Claremont has the right to acquire by eminent domain the property
13 described in the First Amended Complaint on file herein. The proceeding shall continue to the
14 valuation phase of trial at a later determined date. (Code Civ. Proc. §1260.120(b).)

15 The parties shall appear at a Case Management Conference on _____ at
16 8:30 a.m. in this Department.

17 IT IS SO ORDERED.

18
19 Dated: _____

HON. RICHARD L. FRUIN, JR.
Judge of the Superior Court

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EXHIBIT B

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16 CITY OF CLAREMONT, a general law
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20 California corporation; DOES 1 - 1000;
21 AND ALL PERSONS UNKNOWN
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PROPERTY,

22 Defendants.
23

Case No. BC566125
Assigned to Judge Richard Fruin, Dept. 15

**[Proposed] ORDER DISMISSING THE
FIRST AMENDED COMPLAINT OF CITY
OF CLAREMONT**

First Amended Complaint Filed: June 24, 2015
Right to Take Trial Date: June 14, 2016

1 This eminent domain proceeding came on for trial by the Court pursuant to Code Civ.
2 Proc. §§1260.110 et seq. on the objections asserted by defendant Golden State Water Company to
3 the right to take. Beginning on June 14, 2016 and ending on August 11, 2016, the Court heard
4 opening statements, received testimony and documentary evidence, and heard presentations and
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7 Company was represented by George M. Soneff, Edward G. Burg, and Dinesh R. Badkar of
8 Manatt, Phelps & Phillips, LLP.

9
10 Based on the evidence received at trial and the Statement of Decision issued by the Court
11 in this action, IT IS HEREBY ORDERED:

12 The City of Claremont’s First Amended Complaint shall be dismissed.

13 The Court reserves jurisdiction on claims for litigation expenses for 30 days following
14 entry of this order.

15 IT IS SO ORDERED.

16
17 Dated: _____

HON. RICHARD L. FRUIN, JR.
Judge of the Superior Court

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PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 300 South Grand Avenue, 25th Floor, Los Angeles, California 90071. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On November 23, 2016, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

CITY OF CLAREMONT'S OBJECTION TO [PROPOSED] JUDGMENT

in a sealed envelope, postage fully paid, addressed as follows:

George M. Soneff
Ed Burg
Manatt Phelps & Phillips LLP
11355 W Olympic Blvd 8FL
Los Angeles, CA 90064
Tel. 310-312-4000
gsoneff@manatt.com
edburg@manatt.com

*Attorneys for Defendant
Golden State Water Company*

COURTESY COPY VIA E-MAIL

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 23, 2016, at Los Angeles, California.


Sandra Rosales