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11/20/2018 4:32 PM
FRESNO COUNTY SUPERIOR COURT
By: J. Nelson, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF FRESNO

PINEDALE COUNTY WATER DISTRICT,)
a County Water District,)
)
Plaintiff)
)
v.)
)
CITY OF FRESNO, a Municipal)
Corporation, and DOES 1 through 5)
inclusive,)
)
Defendant)
_____)

Case No. 18CECG02957

DECLARATION OF JAMES B.
BETTS IN OPPOSITION TO
MOTION TO TRANSFER VENUE

Date: December 5, 2018
Time: 3:30 p.m.
Courtroom: 502

1 I, JAMES B. BETTS DECLARE:

2 1. I am an attorney duly licensed to practice law before all courts in the State
3 of California, and am counsel of record herein for Defendant City of Fresno. The matters
4 set forth in this declaration are true of my own personal knowledge, and if called as a
5 witness, I could and would testify competently to all matters set forth therein.

6 2. The underlying action was filed by the City against Pinedale arising out of a
7 dispute regarding the parties' written contract entitled "Transportation and Treatment of
8 Pinedale Water District Sewage" (Transfer Agreement") (See Exhibit 1 to Petition for Writ
9 of Mandate, attached as Exhibit A to Request for Judicial Notice ("RJN")). At the
10 completion of trial, the Madera County Superior Court issued its Statement of Decision
11 finding for Plaintiff Pinedale on all issues, and awarded costs, including attorney's fees, to
12 the City. (See Exhibit 2 to Petition for Writ of Mandate, attached as Exhibit A to RJN).
13 Pinedale appealed that judgment, and the Fifth District Court of Appeal affirmed the City's
14 Judgment in all respects. (See Exhibits 3 and 4 to Petition for Writ of Mandate, attached
15 as Exhibit A to RJN).

16 3. Following the rendition of the Trial Court's Judgment (and Second Amended
17 Judgment (See RJN Exhibit B)), Pinedale failed and refused to pay any or all of the
18 awarded attorney's fees, and demanded that the City pursue collection through the filing
19 of a writ of mandate. (See RJN Exhibit A) Following the filing of the City's writ in Fresno
20 County, Pinedale sought to transfer venue pursuant to CCP § 354. The City agreed to the
21 transfer of the action, but sought a transfer to Madera County. This Court ultimately
22 selected Pinedale's chosen neutral county; Kings County. As a result, the City's writ is
23 currently scheduled for trial in Kings County on May 28, 2018.

24 4. Following the transfer of the City's writ petition to Kings County, Pinedale
25 filed a cross-complaint in that matter which is identical to Pinedale's complaint in this
26 litigation. (RJN Exhibit C) In response to the City's demurrer, the Kings County Superior
27 Court dismissed Plaintiffs' cross-complaint with prejudice. (RJN Exhibit D)

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1 5. Following the dismissal of its cross-complaint, Pinedale filed the instant
2 action (which, once again, is a duplicate of the cross-complaint originally filed
3 in Kings County). Thereafter, Pinedale moved the Kings County Superior Court to order
4 this action transferred to Kings County. Judge Chrissakis of the Kings County Superior
5 Court recently denied Pinedale's motion to transfer. (RJN Exhibit E).

6 6. By the instant action, Pinedale asserts causes of action against the City for
7 recession of the Parties' Transfer Agreement, and for a judicial declaration to discharge
8 Pinedale from any obligation under the Second Amended Judgment issued by the Madera
9 County Superior Court, (which is the subject to the pending collection action in Kings
10 County.) In response, the City filed a demurrer and motion to strike Plaintiff's complaint
11 in this case, which motions have been consolidated for hearing with Pinedale's motion to
12 transfer venue.

13 7. In the instant case, the parties, witnesses and documents related to
14 Pinedale's claims are located in Fresno, California, which is a substantially more
15 convenient forum than Madera or Kings Counties.

16 I declare under penalty of perjury pursuant to the laws of the State of California that
17 the foregoing is true and correct, and that this declaration was executed on November 20,
18 2018, at Fresno, California

19
20 Dated: November 20, 2018

BETTS & RUBIN

21
22 By 

23 James B. Betts
24 Attorneys Defendant
25 City of Fresno
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_____ **(By Overnight Courier)** I caused such envelope with postage fully prepaid, to be sent by _____.

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 X **(By Electronic Mail)** I caused each document to be sent electronically to the address below.

Each envelope was addressed as follows:

Neal E. Costanzo Esq.
Costanzo & Associates
A Professional Corporation
575 E. Locust Avenue, Suite 115
Fresno, CA 93720
Email: ncostanzo@costanzolaw.com

Attorneys for:
PINEDALE COUNTY WATER DISTRICT

_____(By E-Mail) I caused each document to be sent by e-mail.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 20, 2018, at Fresno, California.

Adriana Garcia
Adriana Garcia