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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ASSOCIATION OF IRRITATED)
RESIDENTS, an unincorporated)
association,)
)
Plaintiff,)
)
v.)
)
FRED SCHAKEL DAIRY, a California)
proprietorship; FRED SCHAKEL,)
owner and operator; SCHAKEL)
FAMILY PARTNERSHIP, a California)
Limited Partnership, owner and)
operator; AG RESOURCES III, a)
California Limited Liability)
Company, owner; and SOUTH LAKES)
DAIRY, a California general)
partnership, owner and operator,)
)
Defendants.)
)
)
)
)
)

1:05-cv-0707 OWW SMS

ORDER GRANTING DERUYTER
BROTHER'S DAIRY, INC.'S
MOTION TO INTERVENE FOR
LIMITED PURPOSE AND TO
MODIFY PROTECTIVE ORDER

The matter of DeRuyter Brother's Dairy, Inc.'s Motion to Intervene For Limited Purpose and to Modify Protective Order came on for hearing on expedited notice April 10, 2009. The moving party appeared telephonically by Foster Pepper PLLC by John Ray Nelson, Esq. Plaintiff, Association of Irrigated Residents, an unincorporated association, appeared by and through Brent Newell, Esq., and Charles Tebbutt, Esq., who appeared telephonically.

1 Defendants, Fred Schakel Dairy, et al., appeared by their
2 counsel, Stoel Rives LLP by Lee Smith, Esq., and David Douglas
3 Doyle, Esq.

4 The Court considered the Motion, Declaration and Memoranda
5 in Support and Opposition filed by counsel for all parties and
6 oral arguments presented by the parties. For good cause shown,
7 the following orders are entered:

8 Intervenor Deruyter Brother's Dairy, Inc.'s Motion to
9 Intervene for Limited Purpose is GRANTED.

10 Intervenor, DeRuyter Brother's Dairy, Inc.'s Motion to
11 Modify Protective Order is GRANTED UPON THE FOLLOWING TERMS AND
12 CONDITIONS:

13 1. Counsel for Intervenor DeRuyter, shall be immediately
14 entitled to review the expert witness reports and deposition
15 testimony of Dr. David Parker in the ED CA case, as well as any
16 rebuttal or responsive reports, subject to the terms and
17 conditions of the Protective Order entered in ED CA case number
18 1:05-cv-0707 OWW SMS, by which all counsel for DeRuyter Brother's
19 Dairy, Inc. agree to abide and further, such counsel voluntarily
20 submit to the ED CA Court's jurisdiction to enforce said
21 Protective Order;

22 2. Dr. Parker's expert witness reports and deposition
23 testimony, as well as any rebuttal or responsive reports, shall
24 be made available for Intervenor DeRuyter Brother's Dairy, Inc.
25 for "attorneys' eyes only," and those of its experts, all of whom
26 shall agree in writing to be bound by the Protective Order in the
27 ED CA case. No information subject to said Protective Order
28 shall be disclosed to any other person or entity who is not

1 already subject to this Court's Protective Order;

2 3. Any portions of Dr. Parker's deposition testimony in
3 the CARE v. DeRuyter Brothers' Dairy case, ED WA Case No. 2-08-
4 cv-03028-FVS, that refer to or disclose any portion of Dr.
5 Parker's expert witness reports or deposition testimony, as well
6 as any rebuttal or responsive reports in this ED CA action, shall
7 also be designated as subject to the Protective Order in the
8 Washington case; provided, however, if the Protective Order is
9 lifted or modified at a later time with respect to Dr. Parker's
10 reports or deposition testimony in the ED CA action, such
11 documents will thereafter no longer be subject to the limited
12 Protective Order in CARE v. DeRuyter Brother's ED WA case, if the
13 judge in the Washington case agrees;

14 4. Counsel for Plaintiff Association of Irrigated
15 Residents shall provide copies of Dr. Parker's expert witness
16 reports, deposition testimony, and any rebuttal or responsive
17 reports, electronically, promptly upon entry of this Order by
18 7:00 p.m. on April 10, 2009. DeRuyter shall pay one-half the
19 cost of the deposition transcript fee paid by Plaintiff A.I.R. in
20 the ED CA case for the deposition transcript of Dr. Parker;

21 5. All other issues regarding the Protective Order in the
22 ED CA action between the parties to the ED CA action are reserved
23 for hearing upon proper notice, which may be filed without
24 violating the present stay in effect, to set a hearing before
25 Magistrate Judge Snyder at a time she is available;

26 6. This Order is entered without prejudice to any party on
27 any other issue in the pending ED CA case;

28 7. Except for the matters specifically addressed by this

1 Order, this Order shall not be interpreted, nor shall it have the
2 effect of compromising or prejudicing the rights of any party in
3 either the ED CA action or the ED WA action.

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IT IS SO ORDERED.

Dated: April 10, 2009

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE