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4 UNITED STATES DISTRICT COURT  
5 EASTERN DISTRICT OF CALIFORNIA  
6

7 COMMITTEE TO PROTECT OUR  
8 AGRICULTURAL WATER; MIKE  
9 HOPKINS, an individual; JOHN  
10 WEDEL, an individual,

11 Plaintiffs,

12 v.

13 OCCIDENTAL OIL AND GAS  
14 CORPORATION, a Texas  
15 corporation; WESTERN STATES  
16 PETROLEUM ASSOCIATION (WSPA),  
17 a non-profit trade  
18 association; CALIFORNIA  
19 INDEPENDENT PETROLEUM  
20 ASSOCIATION (CIPA) a non-  
21 profit trade association;  
22 CHEVRON U.S.A. INC., a  
23 Pennsylvania corporation;  
24 CALIFORNIA DIVISION OF OIL,  
25 GAS & GEOTHERMAL RESOURCES  
26 (DOGGR); EDMUND G. BROWN, an  
27 individual; TIMOTHY R.  
28 KUSTIC, an individual;  
MARK NECHODOM, an individual;  
LORELEI H. OVIATT, an  
individual; CALIFORNIA  
RESOURCES CORPORATION (DOE  
1), a Delaware corporation;  
and DOES 2 through 100,

Defendants.

No. 1:15-cv-01323-GEB-JLT

**ORDER**

25 On October 1, 2015, at approximately 2:24 p.m.,  
26 Plaintiffs' counsel emailed the undersigned judge's courtroom  
27 deputy, seeking "confirmation that the Local Rules give  
28

1 [Plaintiffs] until October 5, 2015 to file opposition briefs" to  
2 the pending dismissal motions, which were re-noticed for hearing  
3 after this action was transferred from the Central District of  
4 California. The email<sup>1</sup> states in its entirety:

5 Dear Ms. Furstenau,

6 The Central District transferred this case to  
7 the Eastern District on August 31, 2015, and  
8 "vacated" the motions to dismiss filed in  
9 that Court. (ECF No. 95.)

10 Such motions are vacated upon transfer to  
11 give all parties the opportunity to apply the  
12 new District Court's rules and case law when  
13 submitting new motions or oppositions.

14 Defendants chose to re-notice their prior  
15 motions to dismiss on September 8, 2015.  
16 (See, e.g., ECF No. 110.) Defendants misspoke  
17 when they suggested that the motions were  
18 fully briefed. Plaintiffs do not intend to  
19 rest upon their prior oppositions and instead  
20 plan to conform their briefs to Eastern  
21 District Rules and cite to Eastern District  
22 case law.

23 Local Rule 230(c) states that Plaintiffs'  
24 opposition brief is due two weeks before the  
25 hearing on October 19, 2015. Plaintiffs'  
26 opposition briefs are thus due on October 5,  
27 2015.

28 Plaintiffs write to confirm this schedule.  
Judge Burrell's Order denying Plaintiffs' Ex  
Parte Application suggests these motions were  
fully briefed, which is the reason Plaintiffs  
ask.

We appreciate your confirmation that the  
Local Rules give us until October 5, 2015 to  
file opposition briefs.

Sincerely,

Ethan Litney, Esq.

661.949.2595

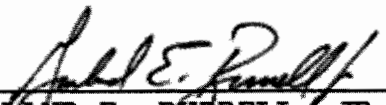
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<sup>1</sup> A copy of the email communication is attached hereto for filing on the public docket.

1           This is an inappropriate ex parte communication with  
2 the Court; if a party desires a ruling from the Court, it should  
3 be requested in a writing filed on the public docket and served  
4 on all other parties.

5           To the extent Plaintiffs seek, through the attached  
6 email communication, leave to reopening briefing on the pending  
7 dismissal motions, it is denied; Plaintiffs have not shown that  
8 Local Rule 230(c) governs the situation here, where fully-briefed  
9 motions are re-noticed for hearing after venue is transferred.  
10 Further, Plaintiffs have not shown that additional briefing is  
11 necessary. For example, although Plaintiffs' counsel states in  
12 his email that "Plaintiffs . . . plan to conform their briefs to  
13 Eastern District Rules and cite to Eastern District case law," he  
14 do not explain how this would change the substance of Plaintiffs'  
15 previously-filed opposition briefs.

16 Dated: October 2, 2015

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19 \_\_\_\_\_  
20 GARIAND E. BURRELL, JR.  
21 Senior United States District Judge  
22  
23  
24  
25  
26  
27  
28



Case No. 1:15-cv-01323-GEB-JLT - Committee v. Occidental - RE:  
Order Denying Plaintiffs' Ex Parte Application  
Ethan Litney

to:

sfurstenau@caed.uscourts.gov

10/01/2015 02:24 PM

Hide Details

From: Ethan Litney <elitney@rrexparris.com>

To: "sfurstenau@caed.uscourts.gov"

<sfurstenau@caed.uscourts.gov>

History: This message has been forwarded.

Dear Ms. Furstenau,

The Central District transferred this case to the Eastern District on August 31, 2015, and "vacated" the motions to dismiss filed in that Court. (ECF No. 95.)

Such motions are vacated upon transfer to give all parties the opportunity to apply the new District Court's rules and case law when submitting new motions or oppositions.

Defendants chose to re-notice their prior motions to dismiss on September 8, 2015. (See, e.g., ECF No. 110.) Defendants misspoke when they suggested that the motions were fully briefed. Plaintiffs do not intend to rest upon their prior oppositions and instead plan to conform their briefs to Eastern District Rules and cite to Eastern District case law.

Local Rule 230(c) states that Plaintiffs' opposition brief is due two weeks before the hearing on October 19, 2015. Plaintiffs' opposition briefs are thus due on October 5, 2015.

Plaintiffs write to confirm this schedule. Judge Burrell's Order denying Plaintiffs' *Ex Parte* Application suggests these motions were fully briefed, which is the reason Plaintiffs ask.

We appreciate your confirmation that the Local Rules give us until October 5, 2015 to file opposition briefs.

Sincerely,

Ethan Litney, Esq.

661.949.2595