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EXEMPT FROM FILING FEES
[GOVERNMENT CODE § 6103]

15
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF SAN FRANCISCO

18
19 SAN DIEGO COUNTY WATER AUTHORITY,

No: CPF-12-512466

20 Petitioner and Plaintiff,

**RESPONDENT AND DEFENDANT
METROPOLITAN WATER
DISTRICT OF SOUTHERN
CALIFORNIA'S NOTICE OF
MOTION AND MOTION FOR
JUDGMENT ON THE PLEADINGS**

21 v.

22 METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA; ALL PERSONS
23 INTERESTED IN THE VALIDITY OF THE
RATES ADOPTED BY THE METROPOLITAN
24 WATER DISTRICT OF SOUTHERN
CALIFORNIA ON APRIL 10, 2012 TO BE
25 EFFECTIVE JANUARY 1, 2013 and JANUARY
1, 2014; and DOES 1-10,

Date: August 22, 2013
Time: 10:30 a.m.
Dept.: 304
Judge: Hon. Curtis E.A. Karnow

26 Respondents and Defendants.

Action Filed: June 8, 2012
Trial Date: December 17, 2013

1 **NOTICE OF AND MOTION FOR JUDGMENT ON THE PLEADINGS**

2 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that on August 22, 2013 at 10:30 a.m. or as soon thereafter as
4 the matter may be heard in Department 304 of the Superior Court of California, County of San
5 Francisco, located at 400 McAllister Street, San Francisco, CA 94102, Respondent and
6 Defendant Metropolitan Water District of Southern California (“MWD”) will and hereby does
7 move for judgment on the first through fourth causes of action in San Diego County Water
8 Authority’s (“SDCWA”) Petition for Writ of Mandate and Complaint for Determination of
9 Invalidity, Damages and Declaratory Relief pursuant to California Code of Civil Procedure
10 Section 438.

11 This motion is made on the grounds that the Proposition 26/California Constitution
12 Article XIII C claims in the first through fourth causes of action fail, as a matter of law, to state
13 facts sufficient to constitute causes of action for writ of mandate, declaratory relief,
14 determination of invalidity, or breach of contract and thus the motion for judgment on those
15 claims should be sustained pursuant to California Code of Civil Procedure Section 438. In
16 support of this motion, pursuant to California Evidence Code Section 452, MWD respectfully
17 requests that the Court take judicial notice of the ballot pamphlets and meeting minutes identified
18 in the Request for Judicial Notice filed herewith.

19 The Proposition 26/Article XIII C claims in the first through fourth causes of action fail
20 to state facts sufficient to constitute a cause of action because Proposition 26/Article XIII C does
21 not apply to the water rates at issue in this case and, even if it did, the voter approval requirement
22 therein has been met.

23 This motion will be and hereby is based on this Notice, the Memorandum of Points and
24 Authorities in support thereof filed herewith, the Request for Judicial Notice filed herewith, all
25 pleadings and papers on file in this action, and such argument as may be presented at the hearing.

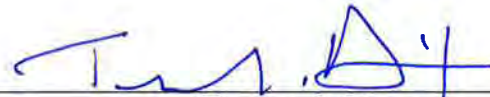
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1 DATED: July 29, 2013

BINGHAM MCCUTCHEN LLP

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4 By:



5 Thomas S. Hixson
6 Attorneys for Respondent and Defendant
7 Metropolitan Water District of Southern California
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