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by  
Superior Court of California  
County of Yuba  
on 5/14/2019

Filing Fees Exempt  
Per Gov. Code, § 6103

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WATER DISTRICT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF YUBA

10 GRETCHEN FLOHR,

11 Plaintiffs/Petitioners,

12 v.

13 THE NORTH YUBA WATER DISTRICT, and  
14 DOES 1 through 100, inclusive,

15 Defendants/Respondents.

Case No.: CVPT19-00503

**NORTH YUBA WATER DISTRICT'S  
CROSS-COMPLAINT TO GRETCHEN  
FLOHR'S VERIFIED PETITION**

Verified Petition filed: March 21, 2019

16 THE NORTH YUBA WATER DISTRICT,

17 Defendant/Cross-Complainant,

18 v.

19 GRETCHEN FLOHR,

20 Plaintiff/Cross-Defendant.

21  
22 Cross-Complainant The North Yuba Water District (the "District") brings this action  
23 against Cross-Defendant Gretchen Flohr ("Cross-Defendant"). The District alleges as follows:

24 **PARTIES**

25 1. The District is located in Yuba County and serves a population of approximately  
26 2,300 via approximately 850 water connections. The District was founded in 1952. The District  
27 provides domestic and irrigation water services to its customers. The District is a County Water  
28 District formed pursuant to Water Code section 30000 et seq.

1 2. Cross-Defendant is a resident of Yuba County and an elected member of the  
2 District's Board of Directors.

3 **JURISDICTION AND VENUE**

4 3. The Court has jurisdiction over this action pursuant to the California Public  
5 Records Act. (Gov. Code, § 6250 et seq.)

6 4. Venue for this action properly lies in the Superior Court of the State of California,  
7 County of Yuba, pursuant to Code of Civil Procedure section 395.

8 **GENERAL ALLEGATIONS**

9 5. Cross-Defendant has submitted various requests to inspect or copy the District's  
10 public records.

11 6. The District responded to all of Petitioner's requests for public documents  
12 pursuant to its obligations under the California Public Records Act. The District provided all  
13 responsive documents to Petitioner's requests for public documents that are not privileged or  
14 otherwise exempt from disclosure under the California Public Records Act.

15 7. On multiple occasions, Cross-Defendant requested the District's public records  
16 pertaining to "drafts, preliminary, and final engineering plans for piping and/or all repairs for the  
17 Forbestown Ditch." The District received Cross-Defendant's most recent request for the  
18 Forbestown Ditch repair engineering plans on or about March 14, 2019.

19 8. On or about March 15, 2019, the District sent Cross-Defendant a letter in  
20 response to her requests for the Forbestown Ditch repair engineering plans. The March 15, 2019,  
21 letter informed Cross-Defendant that the engineering plans sought were draft plans submitted to  
22 the Yuba County Water Agency as part of their review for grant funding and that the plans had  
23 not yet been finalized. As preliminary drafts, the engineering plans were exempt from public  
24 inspection and disclosure pursuant to Government Code section 6254, subdivision (a).

25 9. The March 15, 2019, letter also referred and attached a March 11, 2019, letter,  
26 sent by the District to Daniel Nassie, which similarly stated that the Forbestown Ditch repair  
27 engineering plans were drafts not subject to public inspection and disclosure pursuant to  
28 Government Code section 6254, subdivision (a). The District is informed and believes, and

1 thereon alleges, that Daniel Nassie represented Cross-Defendant as counsel for certain California  
2 Public Record Act requests.

3 10. The draft engineering plans for the Forbestown Ditch repair are not retained by  
4 the District in its ordinary course of business and the public interest in withholding the records  
5 clearly outweighs the public interest in disclosing them.

### 6 **FIRST CAUSE OF ACTION**

#### 7 **(Frivolous Pleading)**

8 11. The District refers to and incorporates the allegations contained in Paragraphs 1  
9 through 10, as though fully set forth herein.

10 12. The District informed Cross-Defendant that the engineering plans for the  
11 Forbestown Ditch repair were preliminary drafts not subject to disclosure pursuant to Government  
12 Code section 6254, subdivision (a).

13 13. The District informed Cross-Defendant that the plans were preliminary drafts via  
14 written correspondence on or about March 15, 2019, as well as by written correspondence to her  
15 counsel on or about March 11, 2019.

16 14. Further, the District informed Cross-Defendant that the Forbestown Ditch repair  
17 engineering plans were drafts not subject to disclosure during discussions at a public meeting of  
18 the District's Board of Directors. At the meeting, Cross-Defendant was told that she would  
19 receive the engineering plans when they were completed.

20 15. Cross-Defendant was well informed that the Forbestown Ditch repair engineering  
21 plans were drafts not subject to disclosure.

22 16. Pursuant to Government Code section 6259, subdivision (d), the District is  
23 entitled to court costs and reasonable attorney's fees if the Court finds that the request's case is  
24 "clearly frivolous."

25 17. By filing her Verified Petition for Alternate and Peremptory Writ of Mandate;  
26 Complaint for Injunctive and Declaratory Re: Access to Records and Information ("Verified  
27 Petition") with knowledge that the engineering plans were preliminary drafts not subject to  
28 disclosure, Cross-Defendant filed a frivolous pleading.

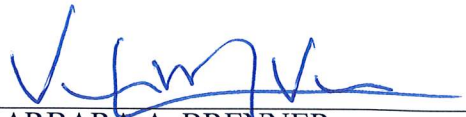


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- 4. For an award in favor of the District of its reasonable attorneys' fees and costs incurred in this action for filing a clearly frivolous action against the District; and
- 5. For such other relief as the Court finds just and appropriate.

DATED: May 14, 2019

CHURCHWELL WHITE LLP

By   
BARBARA A. BRENNER  
VINCENT M. VU  
Attorneys for THE NORTH YUBA  
WATER DISTRICT

3 **DECLARATION OF SERVICE**

4 I am a citizen of the United States, over the age of 18 years, and not a party to or interested in this  
5 action. I am employed by Churchwell White LLP and my business address is 1414 K Street, 3<sup>rd</sup>  
6 Floor, Sacramento, CA 95814. On this day I caused to be served the following document(s):

7 **NORTH YUBA WATER DISTRICT'S CROSS-COMPLAINT TO GRETCHEN  
8 FLOHR'S VERIFIED PETITION**

- 9  By United States Mail. I enclosed the documents in a sealed envelope or package  
10 addressed to the persons at the addresses set forth below.
- 11  deposited the sealed envelope with the United States Postal Service, with the postage  
12 fully prepaid.  
13  placed the envelope for collection and mailing, following our ordinary business  
14 practices. I am readily familiar with this business's practice for collecting and processing  
15 correspondence for mailing. On the same day that correspondence is placed for  
16 collection and mailing, it is deposited in the ordinary course of business with the United  
17 States Postal Service, in a sealed envelope with postage fully prepaid.
- 18  By personal delivery. I personally delivered the documents to the persons at the  
19 addresses set for the below. For a party represented by an attorney, delivery was made to  
20 the attorney or at the attorney's office by leaving the documents in an envelope or  
21 package clearly labeled to identify the attorney being served, with a receptionist or an  
22 individual in charge of the office, between the hours of 9:00 am and 5:00 pm. For a  
23 party, delivery was made to the party or by leaving the documents at the party's residence  
24 with some person not younger than 18 years of age between the hours of 8:00 am and  
25 6:00 pm.
- 26  By Express Mail or another method of overnight delivery to the person and at the address  
27 set forth below. I placed the envelope or package for collection and overnight delivery at  
28 an office or a regularly utilized drop box of the overnight delivery carrier.
- By electronic service at the email address set forth below.

23 Paul Nicholas Boylan  
24 P.O. Box 719  
25 Davis, CA 95617  
26 Telephone: (530) 400-1653  
27 Facsimile: (877) 400-1693  
28 pnboylan@gmail.com

Attorney for GRETCHEN FLOHR

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

2 Executed on May 14, 2019, at Sacramento, California.

3  
4 /s/ Alicea Norsby  
ALICEA NORSBY

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