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Attorneys for Plaintiff Richard Wood and the Class

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12  
13 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
14 **COUNTY OF LOS ANGELES**

15 Coordination Proceeding  
16 Special Title (Rule 1550(b))

17 ANTELOPE VALLEY GROUNDWATER  
18 CASES

19 RICHARD A. WOOD, an individual, on  
20 behalf of himself and all others similarly  
21 situated,

Plaintiff,

v.

22 LOS ANGELES COUNTY  
23 WATERWORKS DISTRICT NO. 40; et  
24 al.

Defendants.

Judicial Council Coordination  
Proceeding No. 4408  
(Honorable Jack Komar)

Lead Case No. BC 325201

Case No.: BC 391869

**REPLY BRIEF IN SUPPORT OF  
SUPPLEMETNAL MOTION FOR  
AWARD OF ATTORNEY FEES  
AND COSTS; SUPPLEMENTAL  
DECLARATION OF MICHAEL D.  
MCLACHLAN**

Location: Room 222  
Stanley Mosk Courthouse  
Los Angeles, California  
Date: July 28, 2016  
Time: 10:00 a.m.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 By way of this Supplemental Fee Motion, Plaintiff Richard Wood  
4 (“Plaintiff”) has requested approval of a supplemental award of attorneys’ fees in  
5 the amount of \$204,485.75, as well as additional costs of \$1,838.37. Subsequent  
6 to filing of this motion, Plaintiff and his counsel have entered into a settlement  
7 agreement with Defendant California Water Service Company, which requires  
8 this defendant to pay the sum of \$7,729.56 for its potential share of attorneys’  
9 fees sought under this motion, as well as \$69.49 in supplemental costs sought in  
10 this motion.<sup>1</sup> (Supp. McLachlan Decl., ¶ 3.)

11 For the reasons set forth below, the Court should award the full amount of  
12 the request for supplemental fees and costs.

13 **II. ADDITIONAL FACTS**

14 Plaintiff will not repeat the facts set forth in the Supplemental Fee Motion,  
15 the initial fee motion, or the various declarations previously submitted. As for  
16 the total fees at issue, District 40 correctly points out a typographical error on the  
17 daily total for June 24, 2016 in the McLachlan firm timesheet. The total hours  
18 for June should thus be 15 hours, not 18. However, the because the fees incurred  
19 from June 27 to the present exceed the estimate of 15 hours by more than three  
20 hours, the total hours requested remains the same. (Supp. McLachlan Decl., ¶ 4.)

21 Los Angeles County Waterworks District No. 40 (“District 40”) has  
22 presented the Court with a summary table of the Class Counsel fee bills at issue  
23 which, although not particularly relevant or helpful, is erroneous. District 40 has  
24 purportedly divided the work in these fee bills into ten categories outlined in  
25 Exhibit AA. The attorney hours reflected in these ten categories contain a total of  
26 only 219.5 attorney hours, but the hours on the timesheets total 245.6 hours.

27  
28 <sup>1</sup> Both of these amounts were calculated using the Court’s allocation to Cal  
Water of 3.78%, as set forth in the Court June 28, 2016 clarification order.

1 (Supp. McLachlan Decl., ¶ 5.) Aside from ignoring 26.1 hours, District 40 has  
2 mischaracterized a significant number of the time entries. (Supp. McLachlan  
3 Decl., ¶ 6.) Since all of the time at issue was reasonably incurred, there is no  
4 reason to take the analysis to any greater level of detail.

5 **III. ARGUMENT**

6 **A. The Prevailing Party Arguments Are Without Merit.**

7 The bulk of District 40's Opposition is devoted to re-litigation of prevailing  
8 party status and related arguments as to entitlement to attorneys' fees.<sup>2</sup> The  
9 threshold assumption of this line of arguments appears to be that in the context  
10 of a supplemental request for attorneys' fees, the party claiming fees must again  
11 establish prevailing party status anew. (Opp., 3:6-7.) District 40 cites no law in  
12 support of this proposition, which is contrary to California law, as discussed  
13 below.

14 District 40 suggests that the Court should adopt an arbitrary temporal  
15 cutoff for the entitlement to attorneys' fees, arguing that fees should not be  
16 awarded "after the March 4, 2015 settlement, when the Wood Class interests  
17 became aligned with District No. 40." (Opp, 4:27-28.) In addition to being  
18 contrary to the law cited in the next section, this notion is factually inaccurate.  
19 The settlement was not effective until it received Court approval, and even now it  
20 is not final because of the pending appeals. Further, post-settlement, the Class  
21 has continued to litigate numerous issues against the remaining water suppliers  
22 including the manner of handling the prove-up trial, the form of the judgment,  
23 and the amendment of the judgment, among others.

24 Moreover, this line of argument completely ignores the fact that these  
25 defendants, as consideration for the benefits they received under the Stipulation  
26

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27  
28 <sup>2</sup> For reasons noted below, and because the various issues relating to the  
right to recovery of fees have been litigated in nearly 100 pages of briefing during

1 for Entry of Judgment, contractually obligated themselves to pay all reasonable  
2 Small Pumper Class Attorneys' fees and costs. (Stipulation, ¶ 11; *see also* Order  
3 After Hearing on April 1, 2016, pp. 6-7.) As such, the question of prevailing party  
4 status is moot; the only argument should be as to the amount of fees and costs.

5 The primary case cited by District 40, *McGuigan v. City of San Diego*, is  
6 inapposite and factual distinguishable due to its “unique procedural context.”  
7 ((2010) 183, Cal.App.4<sup>th</sup> 610, 618.) *McGuigan* involved a motion to fees for work  
8 defending a settlement on appeal brought by a third party objector who had not  
9 been party to the action. Subsequent authority has refused to expand the holding  
10 in *McGuigan*, citing its very narrow procedural circumstances. (*Animal*  
11 *Protection Rescue League v. City of San Diego* (2015) 237 Cal.App.4<sup>th</sup> 99, 109.)  
12 The court in *Animal Rescue* noted that the term “opposing party” is defined in a  
13 black and white fashion as “those by or against whom a suit is brought . . . , the  
14 plaintiff or defendant . . . ,” and further held that fees under 1021.5 still apply  
15 after the opposing party surrenders. (*Id.* at 106-107.) In light of the procedural  
16 posture of this coordinated proceeding and the authority cited in the following  
17 section, a broader extension of the holding in *McGuigan* is contrary to  
18 established principles of attorneys' fees law.

19 **B. Applicable Law Supports Recovery For The Time At Issue**  
20 **in this Motion.**

21 Absent circumstances rendering the award unjust, fees recoverable under  
22 [Section 1021.5] ordinarily include compensation for all hours reasonably spent .  
23 . . .” (*Serrano v. Unruh (Serrano IV)* (1982) 32 Cal.3d 621, 639; (*Ketchum v.*  
24 *Moses* (2001) 24 Cal.4<sup>th</sup> 1122, 1133 (same); *Center For Biological Diversity*, 185  
25 Cal.App.4<sup>th</sup> at 897 (same); *Weeks v. Baker & McKenzie* (1998) 63 Cal.App.4<sup>th</sup>  
26 1128, 1175 (attorney who takes statutory fee case “can anticipate receiving full

27  
28 the initial fee motion (filed on January 27, 2016), Plaintiff will not address these  
same arguments again here.

1 compensation for every hour spent litigating a claim even against the most  
2 polemical opponent.”)

3 If the class were a paying private party who had the same litigation goals as  
4 the class did, all the time would clearly be compensable because it was related to  
5 protecting the Class’ interests. Generally speaking, hours are reasonable if they  
6 were “reasonably expended in pursuit of the ultimate result achieved in the same  
7 manner that an attorney traditionally is compensated by a fee-paying client for all  
8 time reasonably expended on a matter. (*Hensley v. Eckerhart* (1983) 461 U.S.  
9 424, 431.) Put another way, “[t]he number of hours to be compensated is  
10 calculated by considering whether, in light of the circumstances, the time could  
11 reasonably have been billed to a private client.” (*Moreno v. City of Sacramento*  
12 (9<sup>th</sup> Cir. 2008) 534 F.3d 1106, 1111.)

13 More specifically, work performed on related proceedings is compensable.  
14 In *Children’s Hosp. & Med. Ctr. v. Bonta*, the court held that fees are recoverable  
15 for ancillary proceedings that are “closely related and useful” to the litigation, or  
16 that “materially contributed to the litigation” even if such was not “absolutely  
17 necessary.” ((2002) 97 Cal.App.4<sup>th</sup> 740, 779-780, citing *Wallace v. Consumers*  
18 *Coop. of Berkeley, Inc.* (1985) 170 Cal.App.3d 836, 847 (1021.5 award for  
19 administrative proceedings outside court litigation); see also *Heritage Pac. Fin.,*  
20 *LLC v. Monroy* (2013) 215 Cal.App.4<sup>th</sup> 972, 1011 (rejecting challenges to work on  
21 ancillary matters).

22 Similarly, even fees incurred that were necessitated by third parties to the  
23 action are compensable. (*Californians for Responsible Toxics Mgmt. v. Kizer*  
24 (1989) 211 Cal.App.3d 961, 976; *Animal Protection Rescue League, supra*, 237  
25 Cal.App.4<sup>th</sup> at 104; *R.P Richards, Inc. v. Chartered Constr. Corp.* (2000) 83  
26 Cal.App.4<sup>th</sup> 146.)

27 Here, District 40 not only persisted in pursuing claims hostile to the Class’  
28 water rights, but it initiated and pursued the comprehensive adjudication. As the

1 proponent of the consolidation of these actions (which was opposed by the Class),  
2 District 40 should not be heard to complain about a small amount of work related  
3 to other parties to the adjudication, adverse or otherwise. The fact that Class  
4 Counsel took steps to protect the Class' interest in the Judgment should be  
5 expected, is reasonable and often required. (*Barboza v. West Coast Digital GSM,*  
6 *Inc.* (2009) 179 Cal.App.4<sup>th</sup> 540, 547.)

7 As a larger matter of public policy, if the courts were to endorse the  
8 positions Defendants espouse, thereby denying compensation for substantial  
9 work performed, competent counsel will not take these types of cases. The Court  
10 is fully aware that this coordinated proceeding sat at a virtual standstill for over a  
11 year because no counsel would take on the representation. (*See generally*  
12 *Zlotnick Decl.*, filed January 27, 2016.) Courts expressly recognize the need for  
13 courts to respect the policy of awarding full fees, particularly in public interest  
14 cases like this one. (*Perdue v. Kenny A. ex rel. Winn* (2010) 559 U.S. 542, 550-  
15 52; *Kelly v. Wengler* (9<sup>th</sup> Cir. 2016) 822 F.3d 1085, 2016 U.S.App.LEXIS 9381  
16 \*39-41 (discussing difficulty in attracting counsel to take on important but  
17 undesirable cases); *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4<sup>th</sup> 553,  
18 580; *see also* Richard A. Pearl, *Cal. Attorney Fee Awards*, at § 10.67 (discussing  
19 public service element in increasing lodestar).)

### 20 **C. The Hourly Rates Requested Are Below Current Market** 21 **Rates**

22 The defendants do not dispute the fact that the Court must use current  
23 market rates in setting the lodestar, nor do they offer any evidence to suggest that  
24 \$720 per hour is not a well within the range of prevailing hourly rates for similar  
25 work in Los Angeles. (*Ketchum v. Moses* (2001) 24 Cal.4<sup>th</sup> 1122; *PLCM Group,*  
26 *Inc. v. Drexler* (2000) 22 Cal.4<sup>th</sup> 1084, 1094; *Children's Hosp. & Med. Ctr. v.*  
27 *Bonta* (2002) 97 Cal.App.4<sup>th</sup> 740, 783.) In support of the contention that the  
28 Court should apply a lower hourly rate, District 40 states that “[f]ees for fee

1 litigation are generally discounted . . .” In support of this proposition, District 40  
2 mis-cites case law regarding the application multipliers in the context of fees for  
3 fee litigation. (Opp., 10:25-28 (citing *Graham v. DaimlerChrysler Corp.* (2004)  
4 34 Cal.4<sup>th</sup> 553, 579.) There is not law that states that hourly rates should be lower  
5 for work performed on fee motions.

6 District 40 next contends that the “Court has already set Class Counsel’s  
7 hourly rate for the adjudication at \$500 per hour.” (Opp. 11:4-5.) That rate was  
8 specifically applied by the Court for all time between billed between 2007 and  
9 January of 2016, using some form of averaging over that period. (Order After  
10 Hearing on April 1, 2016, pp. 12-13.)<sup>3</sup> The Court did not state that \$500 was a  
11 current market rate.

12 While Counsel could have requested a multiplier for this current time, it  
13 did not. Therefore, the Court should not entertain the Defendants’ suggestion  
14 that it apply an hourly rate below current market rates for complex litigation in  
15 this community. This is particularly true here, given the complicated nature of  
16 this litigation, the skill displayed, the delay in payment (see FN 8, *infra*), and the  
17 undesirable nature of this case.<sup>4</sup>

#### 18 **D. The Hours Billed Should Be Awarded in Full**

19 Without any explanation or justification, District 40 claims the hours spent  
20 on fee related litigation are “excessive.” (Opp. 11:8.)<sup>5</sup> The defendants seem to

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21  
22 <sup>3</sup> This assertion also ignores the fact that the Court approved a rate of \$550  
per hour in late 2013 in conjunction with the earlier partial settlement.

23 <sup>4</sup> Among the various factors that can be considered in setting the hourly  
24 rate is the “undesirability of the case.” (Pearl, *Cal. Attorney Fee Awards*, at §  
25 10.48; *Camacho v. Bridgeport Fin., Inc.* (9<sup>th</sup> Cir. 2008) 523 F.3d 973, 982, n.1  
26 (listing “the ‘undesirability’ of the case” as relevant lodestar adjustment factor);  
*Horsford v. Board of Trustees* (2005) 132 Cal.App.4<sup>th</sup> 359, 399 (upward fee  
adjustment or lodestar enhancement).)

27 <sup>5</sup> The primary problem with the oppositions is that defendants failed to  
28 meet their burden to properly challenge the work performed. Conclusory and  
unsubstantiated objections to a fee claim, are inadequate to rebut the  
presumption that the claiming party’s fees were reasonable incurred. (*Roos v.*

1 ignore the fact that they filed a combined 45 pages of opposition briefs, and very  
2 vigorously contested the fee motion – a motion that was only necessary because  
3 they refused to settle in 2013 and refused to negotiate a resolution to the fee  
4 claim subject to the January 27, 2016 motion. They also filed a sizeable motion to  
5 tax costs. A defendant “cannot litigate [a fee motion] tenaciously and the be  
6 heard to complain about the time necessarily spent by the plaintiff in response.”  
7 *Serrano IV*, 32 Cal.3d 621, 638; *see also Graham v. DaimlerChrysler Corp.*  
8 (2004) 34 Cal.4th 553, 581 (expressly reaffirming the rule of *Serrano IV*);  
9 *Ketchum v. Moses* (2001) 24 Cal.4th 1122 (same); *612 South LLC v. Laconic*  
10 *United Partnership* (2010) 184 Cal.App.4th 1270, 1284 (court must consider fees  
11 incurred after fee motion filed.)

12 The defendants do not contest any specific element of the time incurred on  
13 the fee litigation, which is entirely reasonable given the importance of the motion  
14 and the scorched-earth nature of the defense. By comparison, there are many  
15 published cases where the fees awarded for the fee litigation were far in excess of  
16 what were incurred here. (*Graham*, 34 Cal.4th at 582 (\$762,830 awarded by trial  
17 court, at least 90% of which were for fee litigation); *Weeks v. Baker & McKenzie*  
18 (1998) 63 Cal.App.4th 1128, 1169 (\$166,510 ); *U.S. v. City & County of San*  
19 *Francisco* (N.D. Cal. 1990) 748 F.Supp. 1416, 1441, *aff'd in relevant part* (9th Cir.  
20 1992), 976 F.2d 1536 (court awarded plaintiffs’ counsel for 600 hours, at full  
21 market rates plus a 100% multiplier); *Greene v. Dillingham Constr. N.A., Inc.*  
22 (2002) 101 Cal.App.4th 418 (\$102,201.50); ) *Prison Legal News v.*  
23 *Schwarzenegger* (9th Cir. 2010) 608 F.3d 446, 454 (223.7 hours on fee motion  
24 deemed reasonable); *Gates v. Rowland* (9th Cir. 1994) 39 F.3d 1439, 1448  
25 (\$177,603 award for work on fee motion upheld); *Lucas v. White* (N.D. Cal. 1999)  
26 63 F.Supp.2d 1046, 1060 (394 hours for single fee motion).

27  
28 *Honeywell Int’l, Inc.* (2015) 241 Cal.App.4th 1472, 1492 (fee opponent has burden  
to present specific objections, supported by rebuttal evidence.)



1 District 40 also identifies, inaccurately, various other categories of work  
2 that it seems to contend are somehow improper or non-recoverable but fails to  
3 state why. (Opp., 1:18-2:19; *see* FN5, *supra*.) Per the authority cited above in  
4 Section III.B, this time is properly recoverable.

5 **E. The Lemieux Firm Opposition.**

6 The Lemieux firm raises nearly all the same arguments contained in its  
7 opposition to the earlier fee motion. Given the extensive prior briefing, Plaintiff  
8 will not again repeat its response to these arguments in full here (see Reply Brief  
9 in Support of Motion for Award of Attorneys' Fees (filed March 25, 2016), at §  
10 III.H), but will address a few points.

11 **1. The Claims of Financial Hardship Are Not**  
12 **Substantiated Or Legally Relevant.**

13 The claims of poverty are both unsubstantiated,<sup>6</sup> and legally irrelevant. As  
14 before, the current opposition fails to explain why the “Small Districts”<sup>7</sup> asserted  
15 prescription claims against the Class members, why they chose not to drop their  
16 prescription claims at any juncture in the litigation, including the refusal to settle  
17 in 2013.

18 Furthermore, Government Code section 970.8 requires local public entities  
19 to “include in its budget a provision to provide funds in an amount sufficient to  
20 pay all judgments in accordance with this article.” Here, the small districts seem

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21  
22  
23 <sup>6</sup> According to the Opposition papers filed on the first fee motion, North  
24 Edwards Water District paid \$194,698 in attorney's fees; Desert Lake  
25 Community Service District paid \$213,123; Palm Ranch Irrigation District paid  
26 \$426,213; Littlerock Creek Irrigation District paid \$435,459; and Quartz Hill  
27 Water District paid \$1,829,939. On average, these defense fees exceed by a factor  
28 of nearly ten times each of these entities' allocated share of the April 25 fee  
ruling. (*See* McLachlan 2<sup>nd</sup> Supp. Decl. (March 25, 2016), ¶ 21.) Under the  
Court's ten year payment order, the “Small Districts” each pay between \$1,800  
and \$29,000 per year.

<sup>7</sup> It is curious that the term “Small Districts” appeared at no time during  
this litigation until the filing of the first fee motion earlier this year.

1 to have budgeted sufficiently to pay their attorneys (over \$3,000,000) but not to  
2 have followed the requirement of section 970.8. That failure should not be borne  
3 by class counsel, particularly since the districts have the ability to raise money  
4 from their ratepayers, or through a bond (*see* Gov't Code § 971). There is no  
5 authority to place the financial burden of their choices on Class Counsel.

6 **2. The Request For An Order to Pay A Fee Award Over**  
7 **Ten Years Is Patently Improper Here.**

8 The final request that the Lemieux firm makes is that the Court again order  
9 payment of the award of ten years, citing Government Code sections 970.6 and  
10 984. In the Order Clarifying Order After Hearing on April 1, 2016 (signed June  
11 28, 2016), the Court stated that each of the non-settling defendants (other than  
12 California Water Service) “shall be entitled to pay this judgment in 10 equal  
13 payments over a period of 10 years.”<sup>8</sup> (Supp. McLachlan Decl., Ex. 12.) There are  
14 only three ways in which a judgment against a public entity can be ordered  
15 payable periodically: (1) under C.C.P section 667.7 – which applies to health care  
16 providers, thus is inapplicable here – (2) Government Code section 970.6; or (3)  
17 Government Code section 984(d). (Gov. Code § 984(c).) The election under  
18 Government Code section 984(d) is not applicable to any of the Lemieux firm  
19 clients because the amounts allocated to each of them are well-below the  
20 minimum monetary threshold, and because that section requires payment of 50  
21 percent of the net judgment immediately, which the Court did not order.

22 \_\_\_\_\_  
23 <sup>8</sup> The net result of this schedule is draconian. We are now over 8 years into  
24 this litigation (ignoring Class Counsel’s limited work in 2007). With the litany of  
25 appeals, the judgment will not be final for at least two and perhaps as many as  
26 five years if it is taken up by the California Supreme Court. This means if the  
27 judgment stands, payments will start sometime between late 2018 and 2021, and  
28 conclude sometime between 2028 or 2031. Hence, 24 years may very likely pass  
between the initial work on this case and final payment for that work. And  
currently, the interest accruing during this payment plan is below the rate of  
inflation (and has been for many years). This only serves to underscore the true  
inequity of not awarding current market rates and a multiplier.

1 Hence, the only possible basis for the ten year payment plan is Section  
2 970.6. But that section contains the following requirement: “The governing body  
3 of the local public entity has adopted an ordinance or resolution finding that an  
4 unreasonable hardship will result unless the judgment is paid in installments.”  
5 There is no evidence that any of the defendants have adopted such an ordinance  
6 or resolution. (Gov. Code § 970.6(a)(1).) Similarly, there has been no motion or  
7 hearing on such request, no competent evidence of hardship, nor any finding by  
8 the Court of unreasonable hardship. (Gov. Code § 970.6(a)(2).) And, in the case  
9 of Los Angeles County Waterworks District No. 40, that defendant made no  
10 discussion of financial hardship whatsoever. In short, on the record at hand, it is  
11 error to order periodic payments under Government Code section 970.6.<sup>9</sup>

12 **F. The Attorney Fees Of Richard Pearl Should be Awarded.**

13 District 40 understands that Richard Pearl is a licensed attorney in  
14 California, but nevertheless contends that his work is not compensable because  
15 “he did not perform legal work for the Wood Class . . .” (Opp. 13:5.) While it is  
16 correct that Mr. Pearl provided a declaration in support of the first fee motion,  
17 that does not make those legal services non-compensable. District 40 does not  
18 cite any authority on point. Furthermore, Mr. Pearl’s invoice makes clear that the  
19 declaration is only a portion of the work he performed, all of which was obviously  
20 legal consultation and analysis related to the initial fee motion. Just because he  
21 provided data and information in his area of expertise does not make that work  
22 any less legal work.

23 **G. The Recent Litigation Costs Should Also Be Awarded.**

24 As noted in the Opposition to the Motion to Tax Costs, submission of a  
25 Judicial Council form memorandum of costs is option, not required.

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27 <sup>9</sup> Plaintiff respectfully suggests that the Court should, on its own motion,  
28 amend the June 28, 2016 clarification order to remove the periodic payment  
language.

1 Furthermore, there is no statutory prohibition in awarding these costs. Each of  
2 them is recoverable, either expressly or at the Court's discretion. (C.C.P. §  
3 1033.5(c)(4).)

4 **IV. CONCLUSION**

5 For all of the foregoing reasons, Plaintiff Richard Wood requests that the  
6 Court approve the supplemental award of attorneys' fees in the amount of  
7 \$204,485.75, as well as additional costs of \$1,838.37.

8  
9 DATED: July 21, 2016

LAW OFFICES OF MICHAEL D. McLACHLAN  
LAW OFFICE OF DANIEL M. O'LEARY

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13 By: \_\_\_\_\_  
14 MICHAEL D. MCLACHLAN  
15 Attorneys for Plaintiff and the Class  
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1                   **SUPPLEMENTAL DECLARATION OF MICHAEL D. MCLACHLAN**

2 I, Michael D. McLachlan, declare:

3           1.       I make this declaration of my own personal knowledge, except where  
4 stated on information and belief, and if called to testify in Court on these matters,  
5 I could do so competently.

6           2.       I am co-counsel of record of record for Plaintiff Richard Wood and  
7 the Class, and have been since 2008. I am duly licensed to practice law in  
8 California.

9           3.       Subsequent to filing of this motion, Plaintiff and his counsel have  
10 entered into a settlement agreement with Defendant California Water Service  
11 Company, which requires this defendant to pay the sum of \$7,729.56 for its  
12 potential share of attorneys' fees sought under this motion, as well as \$69.49 in  
13 supplemental costs sought in this motion. Both of these amounts were calculated  
14 using the Court's allocation to Cal Water of 3.78%, as set forth in the Court June  
15 28, 2016 clarification order.

16           4.       District 40 correctly points out a typographical error on the daily  
17 total for June 24, 2016 in the McLachlan firm timesheet. The total hours for  
18 June should thus be 15 hours, not 18. However, the from June 27 to date I have  
19 worked an additional 10.4 hours on this supplemental motion including these  
20 reply papers. I have also worked 6.5 hours on the motion tax costs. Mr. O'Leary  
21 has 2.4 hours of work on these projects. So, excluding several hours of other  
22 work on this matter, and the time that will be spent preparing for the hearing and  
23 attending it, the 15 hour estimate of future time included in the Supplemental Fee  
24 Motion was more well more than three hours light.

25           5.       The ten categories listed in District 40's contain only 219.5 attorney  
26 hours. The hours on the timesheets we submitted total 245.6 hours.

27           6.       I have also reviewed many of the time entries that District 40 has  
28 allocated to certain categories, and they are frequently inaccurate.

1           7.       The time spent on the purported Willis Class and Phelan Appeals  
2 was almost entirely prefatory to or directly related to the pending appeals on the  
3 fee motion, and specially record preparation.

4           8.       Mr. Dunn’s assertion that I billed 0.5 hours on another groundwater  
5 adjudication is wrong. My work on February 23, 2016 related to the Steinbeck  
6 case, on which I am not counsel, was purely related checking on Mr. Dunn’s  
7 representations as to his alleged conflicts in that matter during January and  
8 February, which arose during his efforts to continue the briefing schedule on the  
9 initial fee motion.

10          9.       The few redacted time entries all relate to work-product in ongoing  
11 litigation matters in this case (primarily the fee motion and cost recovery issues).

12          10.       Attached as **Exhibit 11** is a true and correct copy of the Court’s  
13 “Order Clarifying Order After Hearing on April 1, 2016.”

14           I declare under penalty of perjury under the laws of the State of California  
15 that the foregoing is true and correct. Executed this 21<sup>st</sup> day of July, 2016, at  
16 Hermosa Beach, California.

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20 Michael D. McLachlan  
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# **Exhibit 11**

**FILED**  
Superior Court of California  
County of Los Angeles

JUN 28 2016

Sherri R. Carter, Executive Officer/Clerk  
By *[Signature]* Deputy  
E. Lopez

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF LOS ANGELES**

Coordinated Proceeding  
Special Title (Rule 1550(b))

) **Judicial Council Coordination No. 4408**

) [Assigned to the Honorable Jack Komar]

ANTELOPE VALLEY GROUNDWATER  
CASES

) CASE No. BC 391869

) ~~(Proposed)~~ **ORDER CLARIFYING ORDER  
AFTER HEARING ON APRIL 1, 2016**

RICHARD A. WOOD, on behalf of himself and all  
others similarly situated

Plaintiffs,

vs.

LOS ANGELES COUNTY WATERWORKS  
DISTRICT NO. 40; CITY OF PALMDALE;  
PALMDALE WATER DISTRICT; LITTLEROCK  
CREEK IRRIGATION DISTRICT; PALM  
RANCH IRRIGATION DISTRICT; QUARTZ  
HILL WATER DISTRICT; ANTELOPE VALLEY  
WATER CO.; ROSAMOND COMMUNITY  
SERVICE DISTRICT; MOJAVE PUBLIC  
UTILITY DISTRICT; and DOES 1 through 1,000;

Defendants.

07/05/2016

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1 The Court's Order of April 1, 2016 (the "Order"), addressing in part, Richard Wood's Motion for  
2 Award of Attorneys' Fees, Costs and Incentive Award, is clarified as follows:

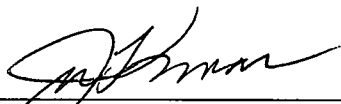
3 The Order does not apply to Boron Community Services District or West Valley Water District.  
4 Further, California Water Service Company is not a public entity and, thus, reference in the Order to  
5 payment over a ten year period in accord with the law is not applicable to this defendant.

6 The allocation of attorneys' fees and costs are allocated among the defendants as follows:

7 Los Angeles County Waterworks District No. 40:	74.76%
8 California Water Service Company:	3.78%
9 Littlerock Creek Irrigation District:	8.77%
10 Quartz Hill Water District:	6.21%
11 Palm Ranch Irrigation District:	5.13%
12 North Edward Water District:	0.54%
13 Desert Lake Community Services District	0.81%

14 Los Angeles County Waterworks District No. 40, Littlerock Creek Irrigation District, Quartz Hill  
15 Water District, Palm Ranch Irrigation District, North Edward Water District and Desert Lake Community  
16 Services District shall be entitled to pay this judgment in 10 equal payments over a period of 10 years.  
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20 DATED: 6-28-16

  
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HONORABLE JACK KOMAR  
Judge of the Superior Court

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over  
3 the age of 18 and am not a party to the within action. My business address is 44  
4 Hermosa Avenue, Hermosa Beach, California 90254. My electronic notification  
address is kevin@mclachlan-law.com.

5 On July 21, 2016, at 11:14 p.m., I caused service in the manner indicated  
6 below of the foregoing document(s) described as **REPLY BRIEF IN SUPPORT  
7 OF SUPPLEMETNAL MOTION FOR AWARD OF ATTORNEY FEES  
AND COSTS; SUPPLEMENTAL DECLARATION OF MICHAEL D.  
MCLACHLAN** to be served on all parties in this matter as follows:

- 8 ( ) (BY U.S. MAIL) I am readily familiar with the firm's practice of collection  
9 and processing of documents for mailing. Under that practice, the above-  
10 referenced document(s) were placed in sealed envelope(s) addressed to the  
11 parties as noted above, with postage thereon fully prepaid and deposited  
such envelope(s) with the United States Postal Service on the same date at  
Los Angeles, California.
- 12 (X) (BY ELECTRONIC SERVICE) Per court order requiring service and filing  
13 by electronic means, this document was served by electronic service to the  
14 by posting to Odyssey eFile, including electronic filing with the Santa Clara  
Superior Court.
- 15 ( ) (BY FEDERAL EXPRESS) I served a true and correct copy by Federal  
16 Express or other overnight delivery service, for delivery on the next  
17 business day. Each copy was enclosed in an envelope or package designed  
18 by the express service carrier; deposited in a facility regularly maintained  
19 by the express service carrier or delivered to a courier or driver authorized  
to receive documents on its behalf; with delivery fees paid or provided for;  
addressed as shown on the accompanying service list.
- 20 (X) (STATE) I declare under penalty of perjury under the laws of the State of  
21 California that the above is true and correct.

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23 /s/ Ana Horga  
24 Ana Horga  
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