

8/18/2016

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SANTA CLARA

10 ANTELOPE VALLEY GROUNDWATER
11 CASES

12 This Pleading Relates to Included Action:
REBECCA LEE WILLIS and DAVID
13 ESTRADA, on behalf of themselves and all
others similarly situated,

14 *Plaintiffs,*

15 v.

16 LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40; CITY OF LANCASTER;
17 CITY OF PALMDALE; PALMDALE
WATER DISTRICT; LITTLEROCK CREEK
18 IRRIGATION DISTRICT; PALM RANCH
IRRIGATION DISTRICT; QUARTZ HILL
19 WATER DISTRICT; ANTELOPE VALLEY
WATER CO.; ROSAMOND COMMUNITY
20 SERVICE DISTRICT; PHELAN PINON
HILL COMMUNITY SERVICE DISTRICT;
21 and DOES 1 through 1,000;

22 *Defendants.*

RELATED CASE TO JUDICIAL COUNCIL
COORDINATION PROCEEDING NO. 4408

Santa Clara Superior Court
Case No.: 1-05-CV-049053

Los Angeles Superior Court
Case No.: BC 364553

23
24 **WILLIS CLASS' OBJECTION TO COURT
SERVING AS MEDIATOR**

25 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

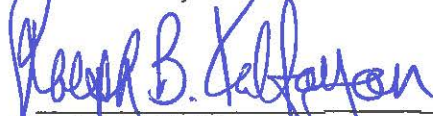
26 The Willis Class objects to the Court serving as mediator as reflected in the proceedings
27 held on July 28, 2016. (Cal. Code Jud. Ethics, canon 2 ["A judge shall avoid impropriety ... and
28 the appearance of impropriety ... in all the judge's activities." (capitalization omitted)].)

1 A “mediator is a neutral individual who confers with each party in private caucus, learning
2 what results are acceptable to each of them and assessing in confidence the strengths and
3 weaknesses of their cases.” (*Cho v. Superior Court* (1995) 39 Cal.App.4th 113, 123.) In contrast,
4 “a judge’s role in a court proceeding does not present the opportunity for confidentiality with a
5 party.” (*Id.* at 120.) Thus, a judge who has participated in mediation “becomes a confidant of the
6 parties, on a par with the parties’ own lawyers. Under those circumstances, the judge will be
7 conclusively presumed to have received client confidences in the course of the mediation, and his
8 later participation in the case will be governed by the same rule that governs lawyers: He may not
9 participate in the case....” (*County of Los Angeles v. United States Dist. Court* (9th Cir. 2000) 223
10 F.3d 990, 993-994.)
11

12 As the Court is aware, the Willis Class has filed appeals challenging the validity and merits
13 of the underlying judgment/physical solution entered by the Court on December 23, 2015
14 (hereinafter the “Judgment II”), as well as the Court’s April 1, 2016 Order Re Fees. If the Willis
15 Class is successful in its efforts, this case may be remanded back to the trial court for further
16 proceedings to (1) determine the groundwater rights of the Class and the other parties to the
17 adjudication; (2) evaluate and reconsider various aspects of the physical solution; and/or (3)
18 evaluate and reconsider the Order Re Fees. In short, the Willis Class appeal may significantly
19 impact and alter Judgment II. In order to maintain the trial court’s impartiality, the Willis Class must
20 respectfully object to the Court serving as a mediator in this adjudication.
21

22 Dated: August 16, 2016

23 KRAUSE, KALFAYAN, BENINK &
24 SLAVENS, LLP

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26 Ralph B. Kalfayan, Esq.
27 Attorney for Plaintiff and the Willis Class
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1 PROOF OF SERVICE

2 ANTELOPE VALLEY GROUNDWATER CASES
3 JUDICIAL COUNCIL PROCEEDING NO. 4408

4 Santa Clara Superior Court
5 Case No.: 1-05-CV-049053

6 Los Angeles Superior Court
7 Case No.: BC 364553

8 I, Cindy Barba, declare:

9 I am a citizen of the United States and employed in San Diego County, California. I am over the
10 age of eighteen years and not a party to the within-entitled action. My business address is Krause
11 Kalfayan Benink & Slavens, LLP, 550 West C Street, Suite 530, San Diego, California, 92101.

12 On August 16, 2016, I caused the following document(s): **WILLS CLASS' OBJECTION TO
13 COURT SERVING AS MEDIATOR** to be served on the parties in this action, as follows:

14 (XX) **BY ELECTRONIC SERVICE** – I filed and electronically served the document(s) listed
15 above to First Legal's website, <http://www.efiling@firstlegalnetwork.com>; in the action of the Antelope
16 Valley Groundwater Cases.

17 (XX) (STATE) I declare under penalty of perjury under the laws of the State of California that
18 the above is true and correct.

19 Executed on August 16, 2016, at San Diego, California.

20 
21 _____
22 Cindy Barba
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