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to Gov't. Code § 6103

10 Attorneys for Cross-Complainants,  
ANTELOPE VALLEY EAST – KERN WATER AGENCY

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 FOR THE COUNTY OF LOS ANGELES

14 Coordination Proceeding  
Special Title (Rule 1550(b))

15 ANTELOPE VALLEY  
16 GROUNDWATER CASES

17 Including Consolidated Actions:

18 Los Angeles County Waterworks District No.  
40 v. Diamond Farming Co.  
19 Superior Court of California, County of Los  
Angeles, Case No. BC 325 201

20 Los Angeles County Waterworks District No.  
21 40 v. Diamond Farming Co.  
Superior Court of California, County of Kern,  
22 Case No. S-1500-CV-254-348

23 Wm. Bolthouse Farms, Inc. v. City of  
Lancaster  
24 Diamond Farming Co. v. City of Lancaster  
Diamond Farming Co. v. Palmdale Water Dist.  
25 Superior Court of California, County of Riverside,  
consolidated actions, Case Nos. RIC 353 840, RIC  
26 344 436, RIC 344 668

27  
28 AND RELATED ACTIONS.

Judicial Council Coordination Proceeding No. 4408

Santa Clara Case No. 1-05-CV-049053  
Assigned to the Honorable Jack Komar  
Department 17C

**[PROPOSED] ORDER AND RULING ON  
EVIDENTIARY OBJECTIONS TO  
OPPOSITION OF BB&K/DISTRICT 40 TO  
AVEK'S DISQUALIFICATION MOTION, AND  
SUPPORTING DECLARATIONS**

**DATE: December 7, 2016**

**TIME: 9:00 a.m.**

**DEPT: Room 222**

**Stanley Mosk Courthouse  
Los Angeles, California**

Judge: Hon. Jack Komar

Complaint Filed: 9/22/2005

Trial Date:

1 The Court's rulings on Antelope Valley - East Kern Water Agency ("AVEK") objections to  
 2 evidence submitted in opposition of its Motion for to Disqualify Best Best & Kreiger ("BB&K") are set  
 3 forth below:

4  
 5 **OBJECTIONS TO DECLARATION OF ADAM ARIKI**

<b><u>Material Objected To:</u></b>	<b><u>Grounds for Objections:</u></b>	<b><u>Court's Ruling on Objections</u></b>
<p>6 1. The declaration of Adam Ariki            7 ("Ariki Decl.") contains no            8 statement that it is made under            9 penalty of perjury.</p>	<p>1. Code of Civil Procedure section            2015.5 sets forth the requirements            for the admissibility of declarations            in court proceedings, including the            requirement that the declaration is            made under penalty of perjury. As            Ariki's declaration does not set forth            the required jurat, it should be            deemed inadmissible in its entirety.            (See <i>Kulshrestha v. First Union            Commercial Corp.</i> (2004) 33            Cal.4th 601 [excluding declaration            from evidence for failure to fully            comply with Code of Civil            Procedure section 2015.5].)</p>	<p>1. Sustained: _____            Overruled: _____</p>
<p>10            11            12            13            14            15            16            17 2. In his declaration, Ariki states,            18 "Based on my experience in this            19 litigation, I would estimate that it            20 would cost at least \$2 million to            have a new law from represent            District 40." (Ariki Decl., 2:14-            16.)</p>	<p>2. Code of Civil Procedure section            2015.5 sets forth the requirements            for the admissibility of declarations            in court proceedings, including the            requirement that the declaration is            made under penalty of perjury. As            Ariki's declaration does not set forth            the required jurat, it should be            deemed inadmissible in its entirety.            (See <i>Kulshrestha v. First Union            Commercial Corp.</i> (2004) 33            Cal.4th 601 [excluding declaration            from evidence for failure to fully            comply with Code of Civil            Procedure section 2015.5].)             Lack of relevance. (Evid. Code §            350.)</p>	<p>2. Sustained: _____            Overruled: _____</p>

<u>Material Objected To:</u>	<u>Grounds for Objections:</u>	<u>Court's Ruling on Objections</u>
	Lack of foundation. (Evid. Code § 403, subd. (a).)  Improper expert opinion; unqualified expert. (Evid. Code § 801.)	
3. In his declaration, Adam Ariki states, “[N]ew counsel would minimally have to review most of the written products that Best Best & Krieger LLP prepared in this matter as well as thousands of filings, discovery responses, orders, and deposition, hearing and trial transcripts.” (Ariki Decl., 2:18-21.) <sup>1</sup>	3. Code of Civil Procedure section 2015.5 sets forth the requirements for the admissibility of declarations in court proceedings, including the requirement that the declaration is made under penalty of perjury. As Ariki’s declaration does not set forth the required jurat, it should be deemed inadmissible in its entirety. (See <i>Kulshrestha v. First Union Commercial Corp.</i> (2004) 33 Cal.4th 601 [excluding declaration from evidence for failure to fully comply with Code of Civil Procedure section 2015.5].)  Lack of relevance. (Evid. Code § 350.)  Lack of foundation. (Evid. Code § 403, subd. (a).)  Improper expert opinion; unqualified expert. (Evid. Code § 801.)	3. Sustained: _____ Overruled: _____

<sup>1</sup> Suggesting that new counsel would be required to review “thousands of filings, discovery responses, orders, and deposition, hearing and trial transcript” is, on its face, absurd and pure speculation. For example, the issues likely to be raised on appeal by the Willis Class have already been briefed by all sides *ad nauseam*. Accordingly, any further briefing thereon will most certainly not require the review of “thousands of filings,” nor will the appeals from the orders relating to the attorney’s fees awarded to the Wood Class.

<u>Material Objected To:</u>	<u>Grounds for Objections:</u>	<u>Court's Ruling on Objections</u>
<p>4. In his declaration, Adam Ariki states, "District No. 40 would have to spend significant time educating its new counsel on matters that [BB&amp;K] learned over the past thirteen years, including the operations of, and water use by District No. 40." (Ariki Decl., 2:21-24.)</p>	<p>4. Code of Civil Procedure section 2015.5 sets forth the requirements for the admissibility of declarations in court proceedings, including the requirement that the declaration is made under penalty of perjury. As Ariki's declaration does not set forth the required jurat, it should be deemed inadmissible in its entirety. (See <i>Kulshrestha v. First Union Commercial Corp.</i> (2004) 33 Cal.4th 601 [excluding declaration from evidence for failure to fully comply with Code of Civil Procedure section 2015.5].)</p> <p>Lack of relevance. (Evid. Code § 350.)</p> <p>Lack of foundation. (Evid. Code § 403, subd. (a).)</p> <p>Improper expert opinion; unqualified expert. (Evid. Code § 801.)</p>	<p>4. Sustained: _____ Overruled: _____</p>

**OBJECTIONS TO DECLARATION OF JEFFREY V. DUNN**

<u>Material Objected To:</u>	<u>Grounds for Objections:</u>	<u>Court's Ruling on Objections</u>
<p>1. In his declaration, Jeffrey V. Dunn contends that AVEK "made public representations that it had no position on the adjudication lawsuits' major issues" and that "it was widely reported that AVEK would remain 'neutral' in the adjudication proceedings." (Declaration of Jeffrey V. Dunn ("Dunn Decl.") at 6:6-8.)</p>	<p>1. Lack of foundation. (Evid. Code § 403, subd. (a).)</p> <p>Lack of relevance. (Evid. Code § 350.)</p> <p>Inadmissible hearsay. (Evid. Code § 1200.)</p>	<p>1. Sustained: _____ Overruled: _____</p>

<u>Material Objected To:</u>	<u>Grounds for Objections:</u>	<u>Court's Ruling on Objections</u>
2. In support of his statement that AVEK made public statements of neutrality regarding the AVG litigation, Jeffrey V. Dunn attached a newspaper article dated September 29, 2008, as Exhibit B to his declaration. (Dunn Decl., 6:8-14 and Exhibit B.)	2. Lack of foundation. (Evid. Code § 403, subd. (a).)  Lack of relevance. (Evid. Code § 350.)  Inadmissible hearsay. (Evid. Code § 1200.)	2. Sustained: _____ Overruled: _____

8 DATED: \_\_\_\_\_

\_\_\_\_\_  
 HON. JACK KOMAR  
 JUDGE OF THE SUPERIOR COURT

1 **BANKS & WATSON**  
2 **CASE NAME: ANTELOPE VALLEY GROUNDWATER CASES**  
3 **COURT: Santa Clara County Superior Court**  
4 **CASE NO: CGC-13-533134 (JCCP No. 4408)**

5 **PROOF OF SERVICE**

6 STATE OF CALIFORNIA )  
7 ) ss.  
8 COUNTY OF SACRAMENTO )

9 At the time of service, I was over 18 years of age and not a party to this action. My business  
10 address is 901 F Street, Suite 200, Sacramento, California 95814. My electronic address is jyoshida@bw-  
11 firm.com.

12 On November 30, 2016, I served the within copy of:

13 **[PROPOSED] ORDER AND RULING ON EVIDENTIARY OBJECTIONS TO OPPOSITION**  
14 **OF BB&K/DISTRICT 40 TO AVEK'S DISQUALIFICATION MOTION, AND SUPPORTING**  
15 **DECLARATIONS**

16 on the interested parties in this action served in the following manner:

17 ( ✓ ) **BY ELECTRONIC FILING** – I caused the document(s) listed above to be transmitted *via*  
18 Odyssey File & Serve to all parties appearing on the electronic services list for the Antelope Valley  
19 Groundwater matter; proof of electronic filing through Odyssey File & Serve is then printed and  
20 maintained in our office. Electronic service is complete at the time of transmission.

21 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
22 true and correct. Executed on November 30, 2016, at Sacramento, California.

23 \_\_\_\_\_  
24 Janna Yoshida