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9 Attorneys for
10 LITTLEROCK CREEK IRRIGATION DISTRICT, PALM RANCH IRRIGATION DISTRICT,
11 NORTH EDWARDS WATER DISTRICT, DESERT LAKE COMMUNITY SERVICES DISTRICT,
12 LLANO DEL RIO WATER CO., LLANO MUTUAL WATER CO., BIG ROCK MUTUAL WATER
13 CO.

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **IN AND FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

16 Coordinated Proceeding
17 Special Title (Rule 1550(b))

18 ANTELOPE VALLEY GROUNDWATER
19 CASES

20 Included Actions:

21 Los Angeles County Waterworks District No. 40
22 v. Diamond Farming Co. Los Angeles County
23 Superior Court Case No. BC 325201;

24 Los Angeles County Waterworks District No. 40
25 v. Diamond Farming Co., Kern County Superior
26 Court, Case No. S-1500-CV-234348;

27 Wm. Bolthouse Farms, Inc. v. City of Lancaster
28 Diamond Farming Co. v. City of Lancaster v.
Palmdale Water District, Riverside County
Superior Court, Consolidated Actions, Case Nos.
RIC 353840, RIC 344436, RIC 344668

29 AND RELATED CROSS-ACTIONS

Judicial Council Coordination No. 4408

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar – Dept. 12

**OPPOSITION TO RICHARD WOOD'S EX
PARTE APPLICATION FOR ORDER TO
SHOW CAUSE; DECLARATION OF W.
KEITH LEMIEUX IN SUPPORT THEREOF**

DATE: September 6, 2013

TIME: 10:00 a.m.

DEPT.: 48 (Los Angeles)

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 Littlerock Creek Irrigation District, Palm Ranch Irrigation District, North Edwards Water District,
3 Desert Lake Community Services District (“Opposing Parties”) and Lemieux & O’Neill submit this
4 Opposition to Richard Wood’s Ex Parte Application for Order to Show Cause Regarding Imposition of
5 Sanctions.

6 **I. ARGUMENT**

7
8 **A. THE PWS PARTIES SUBJECT TO THE COURT ORDER HAVE SIGNED AND**
9 **FILED A STIPULATION AND PROPOSED ORDER AMENDING THE ORDER**
10 **RE: COURT APPOINTED EXPERT COSTS.**

11 At the last hearing, the court stated that the PWS parties subject to the order re: Court-appointed
12 expert could submit an amended version of the order. As of the date of this Opposition, an amended order
13 has been submitted to the court with a fully executed stipulation. Opposing parties have already paid their
14 shares according to the amended proposed order. It took longer than anticipated to obtain all signatures
15 due to trial and vacation schedules. The last signature, that of District 40’s counsel, was received today.
16 Mr. McLachlan was apprised of the status and informed that the amended proposed order would be filed
17 shortly. Mr. Wood’s application offers no grounds for ex parte relief. There is no reason to require the
18 payment of an amount up to ten times more than required under the amended proposed order only to
19 require an immediate refund. Therefore, the ex parte application must be denied.

20 **B. RICHARD WOOD’S EX PARTE REQUEST DOES NOT CONTAIN THE**
21 **NECESSARY THRESHOLD ELEMENTS OF AN EX PARTE APPLICATION,**
22 **AND MUST BE DENIED ; THE EX PARTE REQUEST ALSO VIOLATES COURT**
23 **RULES**

24 The ex parte application must be denied because it is unsupported by a declaration showing that ex
25 parte notice was given or showing grounds to hear the matter ex parte. (CRC 3.1204(b), 1202(c).)
26 Further, the ex parte request does not attach a memorandum of points and authorities or a proposed order,
27 as required. (CRC 3.1201, 3.1113.)

1 An ex parte applicant must make an affirmative factual showing in a declaration containing
2 competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other
3 statutory basis for granting relief on an ex parte basis. (CRC 3.1202(c).) The ex parte request does not
4 provide a single reason why the matter must be heard on shortened notice. In fact, there is no declaration
5 whatsoever supporting the ex parte request. Contrary to Mr. McLachlan's statement in his request, the
6 expert has not threatened to stop work and has not stopped work. The necessary elements of an ex parte
7 application have not been met. As such, ex parte relief cannot be granted.¹

8 Further, Mr. Wood's filing violates CRC 1.20, which requires that those filing papers with the
9 court must redact out bank account numbers and other financial identifiers. Mr. Woods' ex parte papers
10 attach a check from Lemieux & O'Neill containing the firm's bank account and bank routing number.
11 This itself is sanctionable. Mr. McLachlan's office also posted the unredacted check on the website for
12 this case. The firm has twice requested confirmation that Mr. McLachlan will take down the check from
13 the website and redact the firm's account number, but he has failed to respond to correspondence on this
14 subject.

15 **C. OPPOSING PARTIES HAVE NOT YET RECEIVED NOTICE OF COURT**
16 **APPROVAL OF THE BILLS SUBMITTED IN CAMERA.**

17 The court recently issued a minute order indicating the court-appointed bills must be forwarded
18 to the Court for approval before payment. The Wood Class' attorney forwarded the bills to the court for
19 approval, in camera. Opposing parties' counsel indicated to Mr. McLachlan they have not yet received
20 notice that such bills were approved by the court. Counsel for Opposing parties suggested to Wood's
21 counsel that in lieu of filing an ex parte, he post a letter to the Court and all counsel requesting
22 clarification as to whether the bills submitted in camera have been approved. Counsel for Opposing
23 Parties also asked Mr. McLachlan to hold off on filing an ex parte because a [proposed] amended order

24 _____
25 ¹ An ex parte applicant must also disclose prior ex parte applications on the same subject; this was
26 not done. (CRC 3.1202(b).) The ex parte applicant must make more than a pro forma effort to resolve
the issue; this was not done. (LASC LR 7.12(h), (j)(2), (j)(3).)

1 re: the court appointed expert, and stipulation, would be filed with the court shortly. Instead, he
2 responded with an unnecessary ex parte.

3 **II. CONCLUSION.**

4 This unsupported and procedurally improper ex parte application must be denied.

5 Respectfully submitted,

6 DATED: September 5, 2013

LEMIEUX & O'NEILL

7
8 By: 

W. Keith Lemieux

Christine Carson

9 Attorneys for Littlerock Creek Irrigation District, Palm
10 Ranch Irrigation District, North Edwards Water District,
11 Desert Lake Community Services District

DECLARATION OF W. KEITH LEMIEUX
IN SUPPORT OF OPPOSITION TO RICHARD WOOD'S
EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE

I, W. Keith Lemieux, hereby declare:

1. I am a partner with Lemieux & O'Neill ("L&O"), counsel of record for North Edwards Water District, Littlerock Creek Irrigation District, Palm Ranch Irrigation District and Desert Lake Community Services District (hereafter "Opposing Parties") and Llano del Rio Water Company, Llano Mutual Water Company and Big Rock Mutual Water Company in this case. I have personal knowledge of the following, and if called as a witness, I could and would competently testify thereto.

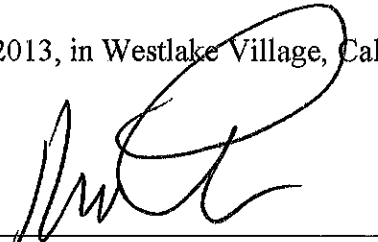
2. At the last hearing, the court stated the PWS parties subject to the order re: Court-appointed expert could submit an amended version of the order re: court-appointed expert. All of the PWS parties subject to the order re: court-appointed expert have approved the stipulation and amended proposed order, and it has been submitted to the court. I asked Mr. McLachlan to hold off on filing this ex parte because the amended order and stipulation would be filed shortly. The Opposing parties have paid the Cardno-Entrix bills pursuant to the proposed amended order and have filed the proposed order. The last signature was obtained September 5, 2013 and the signed stipulation was posted.

3. The court previously issued a minute order indicating the court-appointed bills must be forwarded to the Court for approval before payment. The Wood Class' attorney forwarded the bills to the court for approval, in camera. Counsel for Opposing parties suggested to Wood's counsel that in lieu of filing an ex parte, he post a letter to the Court and all counsel requesting clarification as to whether the bills submitted in camera have been approved. Instead, he responded with this ex parte.

4. Mr. Woods' ex parte papers attach a check from Lemieux & O'Neill containing the firm's bank account and bank routing number. Mr. McLachlan's office also posted the unredacted check on the website for this case. The firm has twice requested confirmation that Mr. McLachlan will take down the check from the website and redact the firm's account number, but he has failed to respond to correspondence on this subject.

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

3 Executed this 5th Day of September, 2013, in Westlake Village, California.

4
5
6 
7 W. Keith Lemieux, declarant

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA,)
3) ss.
4 COUNTY OF VENTURA)

5 I am employed in the County of Ventura, State of California. I am over the age of 18 and not a
6 party to the within action. My business address is 4165 E. Thousand Oaks Blvd., Suite 350, Westlake
7 Village, California 91362.

8 On **September 5, 2013**, I posted the following document(s) to the website
9 <http://www.scefilling.org>, a dedicated link to the Antelope Valley Groundwater Cases, and upon which the
10 parties have agreed this posting constitutes service.

11 **OPPOSITION TO RICHARD WOOD'S EX PARTE APPLICATION**
12 **FOR ORDER TO SHOW CAUSE; DECLARATION OF W. KEITH LEMIEUX**
13 **IN SUPPORT THEREOF**

14 By electronically serving through <http://www.scefilling.org>, and addressed to all parties appearing
15 on the <http://www.scefilling.org> electronic service list, the file transmission was reported as complete and
16 a copy of the <http://www.scefilling.org> Filing/Service Receipt will be maintained with a copy of the
17 document in our office.

18 I am readily familiar with the business practice for collection and processing of pleadings and
19 discovery for electronic service with <http://www.scefilling.org>, and that the pleadings and discovery shall
20 be electronically served this same day in the ordinary course of business.

21 I declare under penalty of perjury under the laws of the State of California that the above is true
22 and correct.

23 Executed on September 5, 2013, in Westlake Village, California.

24 
25 Kathi Mjers
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27
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