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6 DISTRICT NO. 40

**EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103**

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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

17 **ANTELOPE VALLEY GROUNDWATER CASES**
Included Actions:
18 Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co., Superior Court of
California, County of Los Angeles, Case No. BC
19 325201;
20 Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co., Superior Court of
21 California, County of Kern, Case No. S-1500-CV-
22 254-348;
23 Wm. Bolthouse Farms, Inc. v. City of Lancaster,
Diamond Farming Co. v. City of Lancaster,
24 Diamond Farming Co. v. Palmdale Water Dist.,
Superior Court of California, County of Riverside,
25 Case Nos. RIC 353 840, RIC 344 436, RIC 344 668
26 **RICHARD WOOD**, on behalf of himself and all
other similarly situated v. A.V. Materials, Inc., et
27 al., Superior Court of California, County of Los
Angeles, Case No. BC509546
28

Judicial Council Coordination
Proceeding
No. 4408

CLASS ACTION

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

**PUBLIC WATER SUPPLIERS'
OPPOSITION TO WILLIS CLASS'
MOTION FOR COURT ORDER
FOR PAYMENT OF EXPERT
WITNESS FEES FOR THE WILLIS
CLASS FOR PHYSICAL SOLUTION
PROCEEDINGS**

Date: June 15, 2015
Time: 1:30 p.m.
Place: Superior Court
191 North First Street
San Jose, CA 95113
Dept: 1

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1 Los Angeles County Waterworks District No. 40, City of Palmdale, City of Lancaster,
2 Rosamond Community Services District, Littlerock Creek Irrigation District, Palm Ranch
3 Irrigation District, Desert Lake Community Services District, North Edwards Water District,
4 Palmdale Water District, Quartz Hill Water District, and California Water Service Company
5 (collectively, "Public Water Suppliers") hereby oppose the Motion for Court Order for Payment
6 of Expert Witness Fees for the Willis Class for Physical Solution Proceedings ("motion") as
7 follows:

8 **I. THE MOTION IS DUPLICATIVE OF PRIOR MOTION FOR COURT-**
9 **APPOINTED EXPERT**

10 The Willis Class contends that the Court must grant the motion because the Court denied
11 its previous request for a court-appointed expert. (Motion at p. 6.) There is no legal justification
12 for the Court to appoint an expert on behalf of any party and to further require payment of such
13 expert's fees by other parties. This motion is another attempt by the Willis Class and, again,
14 lacks legal support. The Willis Class fails to provide good cause for another motion seeking
15 reconsideration of the Court's earlier decision.

16 The Court should deny the motion seeking payment of its expert fees by other parties.

17 **II. THE MOTION LACKS LEGAL SUPPORT AND IS PREMATURE**

18 Willis Class seeks to recover yet-to-be incurred expert fees pursuant to Code of Civil
19 Procedure Section 1033.5, subdivision (a)(8).¹ (See Motion at pp. 3 & 6.) Expert fees are
20 recoverable as costs only by a prevailing party. (Code Civ. Proc. §§ 1032(b) & 1033.5(a).)

21 Here, the Public Water Suppliers have settled their case with the Willis Class by a court-
22 approved settlement ("Willis Class Settlement Agreement"). The Willis Class has not claimed
23 any rights as against any other party. In fact, the Willis Class has repeatedly denied that it has
24 any claims against other parties. (See, e.g., Rebecca Willis' and the Class' Memorandum of
25 Points and Authorities in Opposition to Motion to Consolidate, filed Aug. 3, 2009, p. 2.) As
26 there is no pending cause of action by the Willis Class against another party, the Willis Class
27 cannot be a prevailing party entitled to potentially recover expert fees under Section 1033.5(a)(8).

28 ¹ Expert fees are not recoverable under Code of Civil Procedure Section 1021.5.

1 The Willis Class' request is based upon a false premise that the Public Water Suppliers
2 violated the Willis Settlement by stipulating to the Proposed Judgment and Physical Solution
3 ("Proposed Physical Solution"). (Motion at p. 5.) Even assuming *arguendo* that the Willis Class
4 opposition to the Proposed Physical Solution constitutes a proceeding under Code of Civil
5 Procedure Section 1032, for which a prevailing party may recover costs, the Court has not made
6 any finding as to whether the Public Water Suppliers violated the Willis Settlement. As such,
7 there is no prevailing party and the motion is premature.

8 Further, the Public Water Suppliers are unaware of any case law or statutory authority that
9 allows a party to recover expert fees in advance of the incurrence of such fees or the resolution of
10 the matter. Nor does the Willis Class cite to any such authority.

11 **III. EXPERT TESTIMONY IS UNNECESSARY**

12 Contrary to the Willis Class contention that it "has no choice but to retain [water
13 economists, real estate appraiser, and physical solution] experts" to enforce the Willis Class
14 Settlement Agreement, expert testimony is not necessary to determine whether the Proposed
15 Physical Solution is consistent with the Willis Settlement. (Motion at p. 3.) The question of
16 whether the two documents are consistent with each other and with California law is itself a
17 question of law. (See, e.g., *Parsons v. Bristol Development Co.* (1965) 62 Cal.2d 861
18 [interpretation of contracts and stipulations between the parties is one of law where no conflicting
19 extrinsic evidence presented at trial].) Thus, expert witness testimony on economic valuation is
20 irrelevant to the issue at hand, and is therefore inadmissible. (Evid. Code §§ 350, 801; see also
21 *Roscoe Moss Co. v. Jenkins* (1942) 55 Cal.App.2d 369 [irrelevant or speculative matters are not a
22 proper basis for an expert's opinion]; *Sargon Enterprises Inc. v. University of Southern California*
23 (2012) 55 Cal.4th 747, 770 [under Evidence Code §801, the trial court acts as a gatekeeper to
24 exclude speculative or irrelevant expert opinion].)

25 Moreover, the Willis Class Settlement Agreement does not contemplate the presentation
26 of alternative physical solutions by the Willis Class. Instead, the Willis Class agrees to be bound
27 by the physical solution fashioned by the other parties or the court, as long as the physical
28 solution is consistent with the Willis Class Settlement Agreement. The Court should not issue

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any order awarding expert fees until a determination has been made as to whether such experts' testimony will be necessary.

IV. CONCLUSION

For the above reasons, the Court should deny the motion.

Dated: June 2, 2015

BEST BEST & KRIEGER LLP

By 
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PROOF OF SERVICE

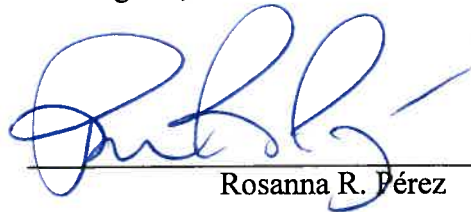
I, Rosanna R. Pérez, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 300 S. Grand Avenue, 25th Floor, Los Angeles, California 90071. On June 2, 2015, I served the within document(s):

PUBLIC WATER SUPPLIERS' OPPOSITION TO WILLIS CLASS' MOTION FOR COURT ORDER FOR PAYMENT OF EXPERT WITNESS FEES FOR THE WILLIS CLASS FOR PHYSICAL SOLUTION PROCEEDINGS

by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 2, 2015, at Los Angeles, California.


Rosanna R. Pérez

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