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6 DISTRICT NO. 40

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

16 ANTELOPE VALLEY GROUNDWATER CASES  
Included Actions:  
17 Los Angeles County Waterworks District No. 40 v.  
Diamond Farming Co., Superior Court of  
18 California, County of Los Angeles, Case No. BC  
325201;  
19 Los Angeles County Waterworks District No. 40 v.  
20 Diamond Farming Co., Superior Court of  
California, County of Kern, Case No. S-1500-CV-  
21 254-348;  
22 Wm. Bolthouse Farms, Inc. v. City of Lancaster,  
Diamond Farming Co. v. City of Lancaster,  
23 Diamond Farming Co. v. Palmdale Water Dist.,  
Superior Court of California, County of Riverside,  
24 Case Nos. RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination  
Proceeding  
No. 4408

CLASS ACTION

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

**OPPOSITION TO MOTION TO  
SET ASIDE JUDGMENT  
ENTERED AGAINST MARK  
RITTER, SUCCESSOR TRUSTEE  
OF THE RITTER FAMILY TRUST  
AND MARK S. RITTER AND  
DANA E. RITTER**

25 RICHARD WOOD, on behalf of himself and all  
26 other similarly situated v. A.V. Materials, Inc., et  
al., Superior Court of California, County of Los  
27 Angeles, Case No. BC509546  
28

1 Los Angeles County Waterworks District No. 40 (“District No. 40”) hereby opposes the  
2 Motion to Set Aside Judgment Entered Against Mark Ritter, Successor Trustee of the Ritter  
3 Family Trust and Mark S. Ritter and Dana E. Ritter (“Ritter Motion”) as follows:

4 **I. INTRODUCTION**

5 The Ritter Trust and its trustees have no valid excuse for their failure to participate in the  
6 case after knowingly and intentionally ignoring it for years. Ritter trustees had knowledge of and  
7 the opportunity to participate in the case for at least the last ten years. Thus, the court judgment,  
8 which was sixteen years in the making, must stand against Mark Ritter, as trustee, and the Ritter  
9 Trust.

10 The Ritter Trust through its trustees has been a party to the Antelope Valley Groundwater  
11 litigation since 2005. Mark Ritter, the current trustee of the Ritter Trust, testified that both he and  
12 the prior trustee, (his mother) Paula Ritter, knew about the groundwater litigation since at least  
13 2000 and knew their groundwater rights might be affected by this case. The Ritter Trust trustees  
14 had at least ten (10) years to assert their claims but chose not to do so until now. Their absence at  
15 trial was not due to mistake, inadvertence, surprise, or excusable neglect but a lack of diligence  
16 on the part of the trustees and their legal counsel. The Court should not overlook or excuse this  
17 lack of diligence, and to set aside the judgment now would contravene the purpose of Code of  
18 Civil Procedure section 473, subdivision (b).

19 **II. FACTUAL BACKGROUND**

20 The following is a brief summary of the key facts demonstrating knowledge and  
21 participation of the Ritter trustees and the Ritter Trust in the Antelope Valley Groundwater  
22 Adjudication:

- 23 • District No. 40 first named Edgar C. Ritter, Paula E. Ritter, and Paula E. Ritter, as  
24 trustees of the Ritter Family Trust in an amendment to its complaint on November  
25 2, 2005. (Declaration of Jeffery V. Dunn (“Dunn Decl.”) ¶ 3, Ex. B.)  
26 • The Ritter trustees first appeared in these coordinated proceedings in a case  
27 management conference statement, as members of the self-designated “Antelope  
28

1 Valley Groundwater Agreement Association” (“AGWA”), on November 28, 2005.  
2 (Dunn Decl., ¶ 4, Ex. C.)

- 3 • The Ritter trustees filed their answer on January 2, 2007. (Dunn Decl., ¶ 5, Ex.  
4 D.)
- 5 • Trustee Paula Ritter signed an acknowledgement of receipt of District No. 40’s  
6 First Amended Cross-Complaint on June 18, 2009. (Dunn Decl., ¶ 6, Ex. E.)
- 7 • The Ritter trustees were consistently identified as AGWA members in their case  
8 filings and so appeared until March, 2013, at which point they inexplicably  
9 disappeared from the case - even though the Court’s December 12, 2012 required  
10 good cause for a party to be excused from the Phase 4 trial. (Dunn Decl., ¶ 7 &  
11 Ex. F at ¶10.)
- 12 • Mark Ritter, successor trustee of the Ritter Family Trust, reappeared in a case  
13 management conference statement filed by a new attorney on September 3, 2015.  
14 (Dunn Decl., ¶ 9.)

15 The following is a summary of the relevant facts from Mark Ritter’s recent deposition:

- 16 • Mark Ritter’s mother, Paula Ritter, was the trustee of the Ritter Family Trust until  
17 her death in 2010, at which point Mark became the successor trustee. (Dunn  
18 Decl., ¶ 2, deposition transcript of Mark Ritter at pp. 10:5-6, 12:7-12.)
- 19 • Mark Ritter testified that his mother Paula had known about the litigation for the  
20 last fifteen (15) years but did not want to pay for lawyers to protect her water  
21 rights. (Dunn Decl., ¶ 2, deposition transcript of Mark Ritter at p. 17:8-18.)
- 22 • Mark Ritter testified that he, too, learned about the coordinated cases  
23 approximately fifteen years ago and that he knew the lawsuit could affect his water  
24 rights. (Dunn Decl., ¶ 2, deposition transcript of Mark Ritter at pp. 38:24-39:14.)
- 25 • Mark Ritter never attempted to participate in the litigation or hire an attorney until  
26 September 2015, at which point he knew the case was ending. (Dunn Decl. ¶ 2,  
27 deposition transcript of Mark Ritter at p. 44:6-15.)

1 The following is a summary of additional facts demonstrating the Ritter trustees' lack of  
2 diligence:

- 3 • Ritter trustees appeared on AGWA's Notice of Intent to Participate in Phase Four  
4 Trial but the Ritter trustees did not participate in Phase Four Trial, failed to  
5 provide mandatory discovery responses, and never sought court permission to  
6 excuse their case obligations. (Dunn Decl., ¶ 10.)
- 7 • Mark Ritter never presented a schedule or date for his water claim to be decided on  
8 the merits. (Dunn Decl., ¶ 11.)
- 9 • Mark Ritter failed to oppose the Wood Class's Request for Judgment against  
10 parties who failed to appear at trial. (Dunn Decl., ¶ 12.)

11 Mark Ritter and the other trustees have not provided a valid excuse for any for their  
12 longstanding failures to appear in the adjudication proceedings.

### 13 **III. ARGUMENT**

14 “The condition or situation which section 473 of the Code of Civil Procedure seeks to  
15 remedy is one in which a party to a cause is unexpectedly placed to his injury without any fault or  
16 negligence of his own which ordinary prudence could not have guarded against. But it is not  
17 every inadvertence or negligence that warrants relief. It is ‘. . . only such inadvertence or  
18 negligence as may reasonably be characterized as excusable.’” (*Hummel v. Hummel* (1958) 161  
19 Cal.App.2d 272, 276.) It is not the purpose of remedial statutes to grant relief from defaults  
20 which are the result of inexcusable neglect of parties or their attorneys in the performance of the  
21 latter's obligation to their clients. (*Tammen v. County of San Diego* (1967) 66 Cal.2d 468, 478.)  
22 Nor was section 473(b) “designed to afford relief from judgments validly entered upon  
23 constructive notice to those who with full knowledge of such service upon them, by reason of  
24 receipt of a copy of the summons and complaint through the mail, remain inactive.” (*Pierson v.*  
25 *Fischer* (1955) 131 Cal.App.2d 208, 212.)

26 The inaction of the Ritter Trust is not excusable. They were properly served, answered,  
27 and appeared in this lawsuit ten years ago. Their former counsel filed documents on their behalf  
28 for years. Even after hiring new counsel in September, 2015, neither the Ritter trustees nor their

1 counsel sought to assert a groundwater claim. Instead, they waited until after the court judgment  
2 and offer no valid explanation for their admitted lack of diligence. Moreover, the Ritter trustees  
3 knew that the Wood Class would move for judgment against parties that failed to appear at trial,  
4 the Ritter trustees did not file any opposition against that request.

5 The Ritters had knowledge of the coordinated adjudication proceedings but chose to  
6 remain inactive until now. Were the Court to allow the Ritter trustees to escape the legal  
7 consequences for sitting on their claimed rights, it could lead to other similar post-judgment  
8 motions by those who also knew about but failed to participate in the groundwater adjudication  
9 proceedings. Section 473(b) was not created to remedy the Ritter trustees' inexcusable neglect,  
10 and this Court should not set aside the judgment with respect to the Ritter trustees and the Ritter  
11 Trust.

12 **IV. CONCLUSION**

13 For the foregoing reasons, Los Angeles County Waterworks District No. 40 respectfully  
14 requests that the Court deny the Ritter Motion.

15 Dated: February 1, 2016

BEST BEST & KRIEGER LLP

17  
18 By 

ERIC L. GARNER  
JEFFREY V. DUNN  
WENDY Y. WANG  
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DISTRICT NO. 40

LAW OFFICES OF  
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**PROOF OF SERVICE**

I, Rosanna R. Pérez, declare:

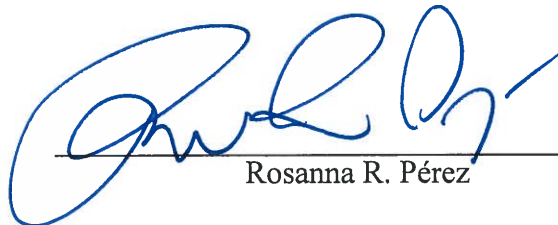
I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 300 S. Grand Avenue, 25th Floor, Los Angeles, California 90071. On February 1, 2016, I served the following document(s):

**OPPOSITION TO MOTION TO SET ASIDE JUDGMENT ENTERED AGAINST  
MARK RITTER, SUCCESSOR TRUSTEE OF THE RITTER FAMILY TRUST AND  
MARK S. RITTER AND DANA E. RITTER**



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 February 1, 2016, at Los Angeles, California.

  
\_\_\_\_\_  
Rosanna R. Pérez

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