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5 ANTELOPE VALLEY WATER COMPANY

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA

7 IN AND FOR THE COUNTY OF LOS ANGELES

8 Coordinated Proceeding) Judicial Council Coordination
9 Special Title (Rule 1550 (b))) Proceeding No. 4408
10 ANTELOPE VALLEY GROUNDWATER CASES) Santa Clara Case No. 1-05-CV-049053
Included Actions:) [Assigned to the Honorable Jack Komar]
11)
12 Los Angeles County Waterworks)
District No. 40 v. Diamond Farming) OPPOSITION TO PLAINTIFF'S MEMORANDUM
13 Co. Los Angeles County Superior Court) OF POINTS AND AUTHORITIES IN SUPPORT
Case No. BC 325201;) OF MOTION FOR AN AWARD OF ATTORNEYS'
14 Los Angeles County Waterworks) FEES, REIMBURSEMENT OF EXPENSES, AND
District No. 40 v. Diamond Farming) CLASS REPRESENTATIVE INCENTIVE AWARD
15 Co., Kern County Superior Court, Case)
No. S-1500-CV-234348;) DATE: March 22, 2011
16 Wm. Bolthouse Farms, Inc. v. City of)
Lancaster Diamond Farming Co. v. City) TIME: 9:00 a.m.
17 of Lancaster v. Palmdale Water) Dept: CCW
District, Riverside County Superior) Judge: Hon. Jack Komar
18 Court, Consolidated Actions, Case)
Nos. RIC 353840, RIC 344436, RIC)
19 344668)

1 California Water Service Company (Cal Water) opposes Plaintiff's motion
2 (Motion) for an incentive payment and for Willis Class (Class) attorney fees
3 under Code of Civil Procedure Section 1021.5 ([CCP] 1021.5) and requests the
4 Court either deny Plaintiff's requests entirely or use its "equitable
5 discretion" under [CCP] 1021.5 to significantly reduce Plaintiff's requested
6 award, which would fairly consider all parties' and most importantly the
7 public's interests at large.

8 Cal Water is a public water supplier, regulated by the California
9 Public Utilities Commission (Commission), serving approximately 670 customers
10 within the Antelope Valley Groundwater Adjudication Boundary (AVGAB).
11 Plaintiff's Motion requests Cal Water, along with the other public water
12 suppliers, who together serve approximately [50,000] customers with their
13 water utility service (commonly referred to in this litigation as Public
14 Water Suppliers (PWS)), to compensate Plaintiff and Class attorneys an
15 outrageous and unjustifiable award of attorney fees.

16 Specifically, Cal Water opposes the Motion on the following grounds:

17 (1) Class' action does not enforce an "important right" affecting the public
18 interest under [CCP] 1021.5; (2) awarding Class fees would unjustly enrich a
19 select and specific class of litigants at the harm of another class of
20 litigants (PWS customers) contrary to the intent of [CCP] 1021.5; (3)
21 awarding Class attorney fees is contrary to the "American Rule," which
22 prohibits an award of attorney fees in the absence of a statute or contract
23 providing otherwise; (4) Class involvement was excessive, certainly to extent
24 billed; and (5) the "financial burden of litigation," as contemplated by
25 [CCP] 1021.5 does not transcend the benefits conferred upon the Class.

1 If the Court finds under [CCP]1021.5 that the Class attorneys should be
2 awarded attorneys' fees, the Court should apply its "equitable discretion"
3 under [CCP] 1021.5 to award only a reasonable amount. A reasonable amount
4 should take into account: (1) contributions of all parties in the litigation;
5 (2) benefits to all parties in the litigation due to Class involvement; and
6 (3) overall public benefit taking into account the overall costs of this
7 litigation.

8
9 **BACKGROUND**

10
11 In 1999, Diamond Farming Co. filed the original complaint in this
12 coordinated proceeding against the City of Lancaster, Palmdale Water
13 District, Antelope Valley Water Company¹, Palm Ranch Irrigation District,
14 Quartz Hill Water District, Rosamond Community Services District, and Mojave
15 Public Utility District in Riverside County Superior Court. In 2001, Wm.
16 Bolthouse Farms filed a similar complaint against the aforementioned
17 defendants and also named defendants Little Rock Irrigation District and Los
18 Angeles Waterworks Districts No. 37 and No. 40. These complaints sought a
19 determination by quiet title actions that Diamond Farming Co. and Wm.
20 Bolthouse Farms rights to pump groundwater were superior to the rights of all
21 the named defendants - the PWS. These cases were consolidated, and a trial
22 was held in Riverside Superior Court. Among other related issues, the
23 Riverside Court sought to define the affected physical groundwater basin.
24 Based on the evidence presented at trial, the Court was unable to make a

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¹ California Water Service Company through stock merger and by law is the
successor to the Antelope Valley Water Company.

1 formal determination, and, in so many words, the Riverside Court recognized
2 that the consolidated cases were ultimately more complex than simply quiet
3 title actions between the litigating parties.

4 In 2007, the PWS filed their first amended cross-complaint in the Los
5 Angeles County Superior Court seeking an adjudication of rights to all
6 groundwater pumping within the Antelope Valley Basin (Basin). The cross-
7 complaint sought to protect the public's water supply and to prevent the
8 undesirable effects of over pumping the groundwater Basin.

9 In 2007, all cases were coordinated with respect to common claims and
10 issues. In 2007, the Class filed its Second Amended Complaint (SAC) against
11 the PWS. In 2008, the Court determined the AVGAB and, most importantly,
12 identified parties whose rights would be impacted by the litigation.

13
14 TRIAL COURT'S EQUITABLE DISCRETION UNDER [CCP] 1021.5

15
16 [CCP] 1021.5, commonly referred to as the private attorney general's
17 doctrine, permits that "a court *may* award attorneys' fees to a successful
18 party ... in any action which has resulted in the enforcement of an *important*
19 *right* affecting the public interest if: (a) a *significant benefit*, whether
20 pecuniary or nonpecuniary, has been conferred on the general public or a
21 large class of persons; (b) the necessity and financial burden of private
22 enforcement ... are such as to make the award appropriate; and (c) such fees
23 should not in the interest of justice be paid out of the recovery, if any."

24 (Emphasis added.)
25

1 The key case to evaluating attorneys' fees motions under [CCP] 1021.5
2 is *Woodland Hills Residents Assoc., Inc. v. City Council of Los Angeles*, 23
3 *Cal.3d 917 (1979)*. Here, a local residents' association and its individual
4 members initiated a mandate action to force the City Council to follow its
5 own city planning guidelines in approving a subdivision development. The
6 association was successful in its mandate action and sought attorneys' fees
7 under the private attorney general and substantial benefit doctrines. The
8 trial court denied the motion. While the appeal was pending, the California
9 Legislature passed [CCP] 1021.5. The Court of Appeal held that [CCP] 1021.5
10 was applicable to the action and remanded the case to the trial court to
11 determine whether the statutory requirements were met. In so doing, the
12 Court of Appeal provided specific guidance on how the trial court should
13 evaluate each of the statute's requirements. First, the Court of Appeal
14 noted that the trial court must "*exercise judgment*" in ruling on whether an
15 "*important right*" was involved. *Id. at 935* (emphasis added). Moreover, "the
16 trial court, utilizing its traditional equitable discretion (now codified in
17 [CCP] 1021.5), must realistically assess the litigation and determine, from a
18 practice perspective, whether or not the action served to vindicate an
19 *important right...*" *Id. at 938* (emphasis added). Likewise, in evaluating
20 the "significance of the benefit, as well as the size of the class receiving
21 the benefit," the court would make a "*realistic assessment*, in light of all
22 the pertinent circumstances, of the gains which have resulted in a particular
23 case." *Id. at 939-940* (emphasis added). Finally, there was a question in
24 this case as to whether the attorneys' fees should and/or could be
25 apportioned. The Court of Appeal held that, "[a]lthough [CCP] 1021.5 does

1 not specifically address the question of the propriety of a partial award of
2 attorney fees, we believe that if the trial court concludes that plaintiffs'
3 potential financial gain in this case is such as to warrant placing upon them
4 a portion of the attorney fee burden, the section's broad language and the
5 theory underlying the private attorney general concept would permit the court
6 to shift only an appropriate portion of the fees to the losing party or
7 parties." *Id. at 942.*

8 Subsequently courts have upheld *Woodland Hills, supra*. In *City of*
9 *Sacramento v. Drew, 207 Cal.App.3d 1287 (1989)*, a taxpayer successfully
10 challenged a local resolution that proposed to assess certain costs for the
11 construction of three new elementary schools. The Court of Appeal again
12 reversed trial court's denial of attorney fees, and in so holding, the Court
13 of Appeal noted that the use of the permissive "may" in the statute
14 "suggest[s] that the statute delegates authority to deny attorney fees in
15 special circumstances notwithstanding that the criteria are found to apply."
16 *Id. at 1297, fn 3.* However, the Court of Appeal continued, "the contrary
17 conclusion is supported on the grounds that [CCP] 1021.5 codifies whatever
18 equitable discretion is delegated to the courts and that California courts
19 have uniformly evaluated fee awards pursuant to the measure whether or not
20 the statutory criteria have been met." *Id.* Thus, the Court of Appeal held,
21 the "may" in [CCP] 1021.5 "simply signif[ies] that a court has discretion to
22 act within the criteria of [CCP] 1021.5." *Id.* This holding would seem to be
23 consistent with the California Supreme Court's decision in *Woodland Hills,*
24 *supra*, in which the Court discussed the judiciary's discretion in relation to
25 each of the statute's express requirements.

1 Finally, in *City of Santa Monica v. Stewart*, 126 Cal.App.4th 43 (2005):
2 Santa Monica and Pasadena both sought to invalidate a voter-approved ballot
3 initiative that the cities thought to be unconstitutional. The Santa Monica
4 case was found to be non-justiciable, so it does not address the [CCP] 1021.5
5 issues. Whereas, in Pasadena, the initiative's sponsor intervened and joined
6 in the writ of mandate after Pasadena insisted that it had no duty to comply
7 with a Government Code section requiring it to authenticate, certify and file
8 copies of the initiative with the Secretary of State. Pasadena then filed a
9 cross-complaint for declaratory relief against the sponsor, which the sponsor
10 moved to strike under the anti-SLAPP statute. The trial court granted the
11 writ of mandate and denied the anti-SLAPP motion. Then, on a motion for
12 summary judgment, the trial court declared the initiative unconstitutional
13 and unenforceable in its entirety. The initiative's sponsor then moved for
14 attorneys' fees under [CCP] 1021.5 on the grounds that it had successfully
15 prosecuted the petition for writ of mandate, which resulted in an order
16 requiring Pasadena to comply with the Government Code. The trial court
17 denied the motion, finding, among other things, that the sponsor had not
18 contributed significantly to the action because the court "probably would
19 have granted" the writ petition based solely on the taxpayer's arguments.
20 The Court of Appeal reversed all of the orders in the Pasadena action,
21 including the denial of the attorneys' fees motion, finding that the sponsor
22 had met the statutory requirements of CCP 1021.5. In so holding, the Court
23 of Appeal noted that "[w]e do not hold that a trial court may not consider
24 the relative contributions of multiple private attorneys general when it
25 exercises its discretion to determine the proper amount of an attorneys' fee

1 award. On the contrary, to the extent both the original plaintiff and the
2 intervenor seek to recover fees for time spent that was superfluous to the
3 results achieved by the litigation, or duplicative of one another's efforts,
4 those factors may properly be used to reduce, or perhaps deny altogether, a
5 particular fee request." *Id.* at 88.

6
7 WILLIS CLASS REQUESTS DOES NOT MEET STATUTORY REQUIREMENTS UNDER [CCP] 1021.5

8
9 1) *Willis Class' Action Did Not Enforce*
10 *an "Important Right" Under [CCP] 1021.5*

11 Even though the coordinated action will serve to protect the Basin,
12 parties initiated the action and have participated in the action to
13 determine their private rights (priority) to use the groundwater from within
14 the AVGAB. The right to use groundwater is a private right even though the
15 groundwater itself belongs to the public.² The Class represents similarly
16 situated property owners within the AVGAB. Cal Water challenges Class'
17 assertion that representing Class members private water rights is an
18 "important right" under [CCP] 1021.5. They did not file their complaint to
19 protect the Basin (the PWS filed their cross-complaint for adjudication), the
20 Class did not file its complaint to vindicate an injustice by a public entity

21 _____
22 ² "Thus, the current state of the law is that a riparian (or overlying) owner,
23 or an established appropriator, has the right to take and use water from e.g.
24 a flowing stream, but the flowing water is not owned. On the other hand, a
25 water right itself has been considered an interest in real property. (See
e.g. *Schimmel v. Martin* (1923) 190 Cal. 429, 432, 213 P. 33.) It is also
sometimes described as a right "appurtenant to" or "part and parcel of" an
interest in real property. (See e.g. *Lux v. Haggin, supra*, 69 Cal. at pp.
390, 391-392, 4 P. 919.) *State v. Superior Court of Riverside County*
78 Cal.App.4th 1019,1025 (2000); 93 Cal.Rptr.2d 276,281

1 - "guard the guardian,"³ but to protect their private right to pump Basin
2 groundwater in the future. The Willis Class clearly stated their intention
3 was to determine and to preserve a right to pump groundwater in the future.⁴

4 The Willis Class may argue that their participation allowed
5 the litigation to move forward given the federal government
6 raised the lack of state jurisdictional issue, *the McCarran*
7 *Amendment, codified at 43 U.S.C. § 666*. Such an argument is
8 hollow and fails to qualify Class' action as an "important
9 right." There have been numerous groundwater adjudication cases
10 in California. Cal Water is not aware that courts in any such
11 cases have ever certified a class or found a class necessary to
12 proceed. As easily as class notices were sent to all Class
13 members, each Class member may have been individually served and
14 model answers and pleadings filed. In such cases, the individual
15 class members would be paying their own legal fees and overall
16 legal costs would be far less than the Class requested. Class
17 Motion's Points and Authorities, page 5, cite several cases.
18 None of these cases, stand for the enforcement of an "important
19 right" simply because it expedited litigation or because class
20 counsel represented a large class, having their own significant
21 economic interest. In *Friends of the Trails v. Blasisus*, 78 Cal.
22 App. 4th 810, fees were awarded to a plaintiffs because Plaintiffs
23 proved that the public had acquired a public easement. "The
24 trial court did not err in determining that this was a case where
25 Friends of the Trails recovered "other than monetary relief as to
NID [Defendants] and in awarding costs against NID. *Id* at 839.
In *Graham v. DaimlerChrysler*, 34 Cal. 4th 553 (2005), the trial
court found pursuit of public safety issues, and in *Beasley v.*
Wells Fargo Bank, 235 Cal. App. 3d 1407 was a public consumer
protection action. As *Beasley* recognizes, section 1021.5
requires both a finding of a significant benefit conferred on a
substantial number of people and a determination that the
"subject matter of the action implicated the public interest." *Id*
at p. 1418. Here, the subject of the Class action is seeking
their own private right to pump groundwater in the future.

2) Awarding Class Attorneys' Fees Would

³ *City of Sacramento at 1299, supra*, "...the adequacy of public enforcement...
seeks economic equalization of representation in cases where private
enforcement is necessary. Note, Cal Water and PWS have 670 and approximately
50,000 customers, respectively. According to Plaintiff's Memorandum of Points
and Authorities In Support Of Motion For An Award Of Attorneys' Fees,
Reimbursement of Expenses, and Class Representative Incentive Award (Motion's
Point and Authorities) page 1, the Willis Class represents 65,000 class
members.

⁴ As pointed out in *City of Lancaster and Rosamond Community Services District*
Opposition to the Motion, Classes SAC seek[s] a judicial determination as to
the priority and amount of water that all parties in interest are entitled
to pump from the Basin

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Unjustly Enrich A Specific Class of Litigants.

The Class requests that PWS pay their legal fees under [CCP] 1021.5. In *California Licensed Foresters Assoc. v. State Board of Forestry*, 30 Cal.App.4th 562 (1994), the Court of Appeal considered whether Foresters Association was entitled to attorneys' fees pursuant to [CCP] 1021.5 in an action against the State Board of Forestry. The Association challenged an emergency action by the Board that altered the requirements necessary to obtain approval to harvest timber. The Association claimed the new regulation adversely affected the livelihood of its members and sought an injunction barring enforcement of the emergency regulation. The trial court ruled that the Association was entitled to its fees pursuant to [CCP] 1021.5. The Court of Appeal reversed concluding that the "costs of litigation were not out of proportion to [the Association's] stake in the litigation."

Here, Class is requesting attorneys' fees of approximately \$3.4 million. Cal Water does not believe that the attorneys' fees requested is reasonable or justified given at most 51 months of Class attorney involvement in the litigation.⁵ Notwithstanding, requested Class attorneys' fees split equally amongst class members (65,000) is approximately \$52.30 (\$3.4 million divided by 65,000) per Class member. Rebecca Willis owns ten acres of land. Having the potential to pump groundwater in the future on such a large parcel within the high desert area of the AVGWAB, unquestionably has enriched Rebecca Willis and each Class member, by more than \$52.30, or in Rebecca Willis case \$5.23 per acre. Clearly, Rebecca Willis and Class members have a

⁵ Motion's Points and Authorities page 1.

1 pecuniary interest in this litigation. In fact, each Class member has a
2 strong personal economic interest. As stated in *Beach Colony II Ltd. v. Cal.*
3 *Coastal Comm.*, 166 Cal.App.3d 106 (1985), the trial court entered an order
4 awarding plaintiff attorneys' fees pursuant to [CCP] 1021.5. In that case,
5 Colony II was a partnership formed to develop real property. It applied to
6 the Commission for a development permit to allow it to build 10 condominiums
7 on its land. The Commission granted the permit but imposed a condition
8 requiring Colony II to transfer a portion of its property to the public. The
9 trial court held that the condition imposed by the Commission was improper
10 and awarded Colony II attorneys' fees. The Court of Appeal reversed the
11 attorney fees award. The Court stated that "Section 1021.5's policy of
12 *encouraging public interest lawsuits is not promoted by awarding fees to*
13 *persons having strong personal economic interest in litigating matters.*"
14 (emphasis added) *Id.* at 115. The Court further held that "the litigation
15 here was self-serving, and Colony II does not show why its victory does not
16 justify the cost of winning it." Class' Motion's Points and Authority makes
17 no such a showing.

18 Within the AVGAB, it is undisputed that Class members' lands would be
19 of less value without water. At this point, Willis Class (dormant landowners
20 i.e. , parties who own land, but are not currently pumping water from the
21 groundwater basin or receiving water from a PWS), clearly, had a paramount
22 economic interest to participate in the litigation. As a matter of fact, the
23 Court does not have to infer Class members' interests. Mr. Fife represents
24 a coalition of landowners and indicated in his arguments against the Court's
25 acceptance of the Class settlement with PWS indicated that some of his

1 clients also signed to join as members of a class. Class members have been
2 economically enriched and some may have been willing to pay costs associated
3 with the litigation.

4 To some extent Cal Water and the other PWS represent a class of
5 litigants - our customers. Our customers will ultimately pay the costs of
6 litigation through higher water rates, pursuant to Commission rate setting
7 policies and procedures in Cal Water's case. Our customers have the same
8 interests as the Class members - determination to a sustainable right to pump
9 groundwater from the Basin, and, therefore, avoid paying costs of higher
10 priced imported water to meet their water requirements.

11 Since there are possibly fewer PWS customers than Class members, each
12 PWS customer may be responsible for even higher Class attorneys' fees. PWS
13 customers did not receive any justice or economic benefit greater than Class
14 members.

15 *3) Awarding Class Attorneys' Fees is contrary to the "American Rule"*

16
17 Since [CCP] 1021.5 is not justified, awarding Class attorney fees is
18 contrary to the "American Rule," where, unless set forth in statute or
19 contract, each party pays its own legal fees. Applying [CCP] 1021.5 to a
20 certified class in a groundwater adjudication in a state where numerous
21 similar adjudications with similar parties' interests have been heard and
22 ruled upon courts, would exceed [CCP] 1021.5 current application and may
23 significantly increase legal costs of California groundwater adjudications in
24 the future.

25 *4) Class Involvement Was Unnecessary, Certainly To Extent Billed*

1 Cal Water leaves arguments regarding whether the Class was a successful
2 party under [CCP] 1021.5; as well as, the appropriate or reasonable amount of
3 Class attorneys' fees to be awarded, if any, to other PWS defendants' briefs.
4 Nevertheless, Cal Water does not believe that the "necessity...of private
5 enforcement" criterion is met here. As previously stated, Class members had
6 a pecuniary interest in the litigation and their legal costs, even if
7 inflated, are justified by the bestowed economic benefit to pump groundwater
8 in the future. Most importantly, the Class can not show that the private
9 attorney general's fees were necessary. Certainly, PWS were acting in the
10 public interest to project the groundwater basin. Simply, there was no
11 injustice here to motivate Class action - just their commonly shared interest
12 to determine their groundwater pumping right. Finally, *Graham*, supra,
13 concludes that another limitation on the catalyst rule:

14 We believe this requirement is fully consistent with the basic
15 objectives behind section 1021.5 and with one of its explicit
16 requirements-the "necessity ... of private enforcement" of the
17 public interest. Awarding attorney fees for litigation when those
18 rights could have been vindicated by reasonable efforts short of
19 litigation does not advance that objective and encourages
20 lawsuits that are more opportunistic than authentically for the
21 public good. Lengthy prelitigation negotiations are not required,
22 nor is it necessary that the settlement demand be made by
23 counsel, but a plaintiff must at least notify the defendant of
24 its grievances and proposed remedies and give the defendant the
25 opportunity to meet its demands within a reasonable time. *Graham*
at 577

21 Class did not in Cal Water's opinion attempt to settle this case prior
22 to litigation consistent with *Graham*. As other PWS have argued Class
23 attorneys' may have acted more opportunistically. As such, Class attorneys'
24 fees awarded, if any, should be significantly reduced.

25 5) *The "Financial Burden Of Litigation" Does Not Transcend the Benefits
Conferred on Class Members*

1 Cal Water has presented its arguments that the financial burden of
2 litigation does not transcend the benefits conferred on the Willis Class
3 members, with the exception, of a comparison to its own customers. Cal Water
4 has been a defendant in this litigation since 1999. Cal Water customers have
5 certainly had to pay more than \$52.30 per customer (or \$35,041, being %52.30
6 times 670 customers) over the period of litigation to ensure their right to
7 groundwater. Cal Water believes that principally water provide water is to
8 customers' primary residences. Whereas, the Class, who are most likely land
9 speculators (investors) because water is not being consumed on the property,
10 have large property holding (ten acres verses Cal Water customers with
11 approximately one quarter acre lots) and arguably have less "need" but more
12 profit to "gain." In such case, the Willis Class can not in good faith argue
13 that their financial burden of litigation transcends that of Cal Water's
14 customers.

15 CONCLUSION

16
17 Class' participation, actions and purposes do not meet the statutory
18 requirements under [CCP] 1021.5. Class attorney fees should be denied. If
19 the Court, however, finds to award attorney fees under [CCP] 1021.5, attorney
20 fees should be significantly reduced consistent with other court rulings.
21

22 DATED: March 9, 2011

CALIFORNIA WATER SERVICE COMPANY

23
24 By:  _____

25 JOHN S. TOOTLE, ESQ.

1 PROOF OF SERVICE (C.C.P. §1013a, 2015.5)

2 Antelope Valley Groundwater Cases

3 Judicial Counsel Proceeding No. 4408

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

5 I am employed in the County of Los Angeles, State of California. I am
6 over the age of 18 and not a party to the within action; my business address
7 is 2632 West 237th Street, Torrance, CA 90505.

8 On March 9, 2011, I served the foregoing document(s) entitled:

9 **CALIFORNIA WATER SERVICE COMPANY'S OPPOSITION TO PLAINTIFF'S MEMORANDUM OF
10 POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR AN AWARD OF ATTORNEYS' FEES,
11 REIMBURSEMENT OF EXPENSES, AND CLASS REPRESENTATIVE INCENTIVE AWARD**

12 by placing the true copies thereof enclosed in sealed
13 envelopes addressed as stated on the attached mailing
14 list.

15 by placing _ the original, _ a true copy thereof,
16 enclosed in a sealed enveloped addressed as follows:

17 X **BY SANTA CLARA SUPERIOR COURT E-FILING IN COMPLEX LITIGATION
18 PURSUANT TO CLARIFICATION ORDER DATED OCTOBER 27, 2005.**

19 Executed on March 9, 2011, at Torrance, California

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

23 (Federal) I declare that I am employed in the office of a
24 member of the Bar of this Court at whose direction
25 the service was made.

26 
27 Michael Duque