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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

11 **ANTELOPE VALLEY**
12 **GROUNDWATER CASES**

) JUDICIAL COUNCIL COORDINATION
) PROCEEDING NO. 4408
)

13
14 This Pleading Relates to Included Action:
REBECCA LEE WILLIS, on behalf of
herself and all others similarly situated,

) CASE NO. BC 364553
)
)

15
16 Plaintiff,

) **CLASS PLAINTIFF'S RESPONSE TO LOS**
) **ANGELES COUNTY WATERWORKS**
) **DISTRICT NO. 40'S BRIEF RE**
) **EQUITABLE APPORTIONMENT OF**
) **WILLIS CLASS FEE AWARD**

17 vs.

18 LOS ANGELES COUNTY WATERWORKS)
DISTRICT NO. 40; CITY OF LANCASTER;)
19 CITY OF LOS ANGELES; CITY OF
PALMDALE; PALMDALE WATER
20 DISTRICT; LITTLEROCK CREEK
IRRIGATION DISTRICT; PALM RANCH
21 IRRIGATION DISTRICT; QUARTZ HILL
WATER DISTRICT; ANTELOPE VALLEY
22 WATER CO.; ROSAMOND COMMUNITY
SERVICE DISTRICT; MOJAVE PUBLIC
23 UTILITY DISTRICT; and DOES 1 through
1,000;

) Date: March 22, 2011
) Time: 9:00 a.m.
) Dept: 15 (CCW)
) Judge: Hon. Jack Komar
Coordination Trial Judge
)

24 Defendants.
25

26 Class Plaintiff, Rebecca Lee Willis, respectfully submits this memorandum of points and
27 authorities in response to Los Angeles County Waterworks District No. 40's Brief re Equitable
28

1 Apportionment of Willis Class Fee Award (the “Apportionment Brief”).

2 Willis agrees with the arguments made by Copa De Oro in its Memorandum in
3 Opposition to the Apportionment Brief. Willis affirms that she only sought fees from the
4 Defendant Public Water Suppliers (“Defendants”) and related entities that have asserted claims
5 to prescriptive rights vis-à-vis the Willis Class. Those are the only parties directly adverse to the
6 Class in this litigation, and the only parties against whom fees may properly be awarded under
7 Section 1021.5 of the Code of Civil Procedure. The landowners are not analogous to the “real
8 parties in interest” as to whom the courts have imposed responsibility for such fees.
9

10 Willis files this memorandum simply to clarify two important points: first, District 40’s
11 Brief is procedurally improper. Issues as to the proper allocation of any fee award are distinct
12 from the issues raised by Plaintiff Motion seeking an award of fees and expenses. If District 40
13 wishes to raise the allocation issue, it should do so through a proper motion, briefed in accord
14 with the Code.

15 Second, although the Court may apportion a fee award among the various Defendants, it
16 is not required to do so. In that event, all Defendants should be held jointly and severally liable
17 for any fee award. *See Friends of the Trails v. Blasius* (2000) 78 Cal. Ap. 4th 810, 837. They
18 could then attempt to agree among themselves as to a proper allocation or seek appropriate relief
19 from the Court if they could not agree.
20

21 For the foregoing reasons, Plaintiff respectfully requests that the Court grant her fee
22 petition and award the fees and costs she requested jointly and severally against all Defendants to
23 the Willis action.

24 Dated: March 15, 2011

KRAUSE KALFAYAN BENINK
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/s/Ralph B. Kalfayan

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