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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

**ANTELOPE VALLEY GROUNDWATER
CASES**

Included Consolidated Actions:

- Los Angeles County Waterworks District No. 40 v. Diamond Farming Co. Superior Court of California County of Los Angeles, Case No. BC 325 201
- Los Angeles County Waterworks District No. 40 v. Diamond Farming Co. Superior Court of California, County of Kern, Case No. S-1500-CV-254-348
- Wm. Bolthouse Farms, Inc. v. City of Lancaster Diamond Farming Co. v. City of Lancaster Diamond Farming Co. v. Palmdale Water Dist. Superior Court of California, County of Riverside, consolidated actions, Case Nos. RIC 353 840, RIC 344 436, RIC 344 668
- Rebecca Lee Willis v. Los Angeles County Waterworks District No. 40 Superior Court of California, County of Los Angeles, Case No. BC 364 553
- Richard A. Wood v. Los Angeles County Waterworks District No. 40 Superior Court of California, County of Los Angeles, Case No. BC 391 869

Judicial Council Coordination
Proceeding No. 4408

Lead Case No. BC 325 201

**ORDER AFTER HEARING:
Willis Class' Motion For
Reconsideration of the Court's
November 16, 2011 Order Re Election
For Periodic Payments of The
Amended Final Judgment Approving
Willis Class Action Settlement or, in
The Alternative, For Relief Pursuant
to Code of Civil Procedure Section
984(e)(4)**

Hearing Date(s): April 17, 2012
Time: 9:00 a.m.
Location: Central Civil West
Room 1515 (15th Floor), 600 South
Commonwealth Avenue, Los Angeles,
CA 90005

Judge: Honorable Jack Komar

1 The Willis Class moves pursuant to Code of Civil procedure Section 1008 for
2 reconsideration of the Court's Order of November 16, 2011, which approved the election by
3 Los Angeles County Water Works District Number 40 (District 40) to make periodic payments
4 pursuant to Government Code Section 984. In the alternative the Class seeks relief pursuant to
5 Government Code Section 984 (e) (4). The motion was heard on April 17, 2012. Ralph B.
6 Kalfayan, Esquire, appeared for the class and Jeffrey V. Dunn, Esquire, appeared for District
7 40.

8 The Court considered the briefs and oral argument of counsel. The matter having been
9 submitted the court makes the following order denying the motion without prejudice:

10 District 40 filed a notice of appeal from the amended judgment, which judgment
11 adopted and incorporated and set forth the original and supplemental orders for attorneys' fees
12 and costs and a class representative incentive award. The Willis class filed a motion to dismiss
13 the appeal on the grounds that it was not timely filed. The court of appeal denied the motion to
14 dismiss by written order and found the notice of appeal from the amended judgment to have
15 been timely filed.


16 An appeal from a judgment by its nature confers jurisdiction on the appellate court to
17 consider and rule upon all issues that underlie the judgment, including the jurisdiction to
18 reverse the judgment in its entirety, and correlatively divests the trial court of jurisdiction to
19 modify any provisions in the judgment, or "matters embraced therein, or affected thereby."
20 Code of Civil Procedure Section 916. The stay of trial court proceedings is mandatory and the
21 court has no jurisdiction to proceed on the issues reflected in the amended judgment. See
22 *Varian Medical Systems v. Delfino* (2005) 35 Cal. 4th 180.

23 While some of the language in the Order of the appellate court denying the motion to
24 dismiss may raise questions concerning which issues will be considered on appeal, the mere
25 fact that the appeal is from the amended judgment itself precludes the trial court from making
26 any orders with regard to any provisions in the amended judgment. The court does not have
27 jurisdiction to consider the motions under Government Code Section 984 or Code of Civil
28 Procedure Section 1008. The Amended Judgment was filed on September 22, 2012. The order

1 approving the election to make periodic payments was made thereafter on November 16, 2012.
2 Since on its face the appeal is from the amended judgment in its entirety, should the court
3 reverse any part of the judgment for fees, the reversal may affect the periodic payments election
4 as well.

5 Motion denied without prejudice.

7
8 Dated: April 19, 2012


9 Hon. Jack Komar
10 Judge of the Superior Court