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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES

12 **ANTELOPE VALLEY**  
13 **GROUNDWATER CASES**

14 This Pleading Relates to Included Action:  
15 REBECCA LEE WILLIS and DAVID  
16 ESTRADA, on behalf of herself and all  
17 others similarly situated,

18 *Plaintiffs,*

19 v.

20 LOS ANGELES COUNTY  
21 WATERWORKS DISTRICT NO. 40;  
22 CITY OF LANCASTER; CITY OF  
23 PALMDALE; PALMDALE WATER  
24 DISTRICT; LITTLEROCK CREEK  
25 IRRIGATION DISTRICT; PALM  
26 RANCH IRRIGATION DISTRICT;  
27 QUARTZ HILL WATER DISTRICT;  
28 ANTELOPE VALLEY WATER CO.;  
ROSAMOND COMMUNITY SERVICE  
DISTRICT; PHELAN PINON HILL  
COMMUNITY SERVICE DISTRICT; and  
DOES 1 through 1,000;

*Defendants.*

RELATED CASE TO JUDICIAL COUNCIL  
COORDINATION PROCEEDING NO. 4408

**WILLIS' CLASS' NOTICE AND RENEWED  
MOTION TO ADD LEAD PLAINTIFF**

Date: December 22, 2014

Time: 9:00 AM

Place: Santa Clara County Superior Court,  
191 N. 1<sup>st</sup> St., San Jose, CA 95113, Dept. 1

Judge: Hon. Judge Komar

**TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**



1 case. The Court requested that Plaintiff renew the motion to add the Archdiocese by filing an Opt-  
2 In Form for the Archdiocese, filing a declaration showing that the “Leslie Property” was sold and  
3 is no longer owned by the Archdiocese, and by dismissing the answer filed by the Leslie Property  
4 (at a time when it was owned by the Archdiocese). Plaintiff has complied with all of the Court’s  
5 requirements and therefore respectfully requests that the Court grant his renewed motion to add the  
6 Archdiocese as a class representative.  
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8 As the Court correctly found during the November 4<sup>th</sup> Hearing, the Archdiocese qualifies  
9 as a Member of the Willis Class because the Archdiocese is a non-producer of water and is an  
10 overlying owner of land within the Antelope Valley. 11/4/14 Hearing Transcript at 2:9-12.  
11 Addition of the Archdiocese as a class representative will not alter the Willis Class’s post judgment  
12 status. The other parties involved in the Basin groundwater adjudication will not be prejudiced by  
13 this addition, as the parties will not be required to re-litigate any aspect of the Class’ claims or face  
14 any new claims.  
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## 16 **II. RELEVANT FACTS**

17 On or about January 11, 2007 Rebecca Lee Willis filed her Class Action Complaint to  
18 contest certain public entities’ claims that those entities had obtained prescriptive rights to a portion  
19 of the Antelope Valley Groundwater Basin’s (“Basin”) groundwater. The class was certified and  
20 was defined to include:  
21

22 “All private (i.e., non-governmental) persons and entities that own real property within the Basin,  
23 as adjudicated, that are not presently pumping water on their property and have not done so at any  
24 prior time (“the Class”). The Class includes the successors-in-interest by way of purchase, gift,  
25 inheritance, or otherwise of such landowners. The Class excludes the defendants herein, any person,  
26 firm, trust, corporation, or other entity in which any defendant has a controlling interest or which  
27 is related to or affiliated with any of the defendants, and the representatives, heirs, affiliates,  
28 successors-in-interest or assigns of any such excluded party. The Class also excludes all persons to  
the extent their properties are connected and receive service from a municipal water system, public  
utility, or mutual water company. The Class shall [further] exclude all property(ies) that are listed  
as ‘improved’ by the Los Angeles County or Kern County Assessor’s’ office, unless the owners of  
such properties declare under penalty of perjury that they do not pump and have never pumped  
water on those properties.”

1           On or about July 13, 2010, the parties to the Willis case resolved all claims contained in the  
2 pleadings. The court-approved notice of the settlement was mailed out to over 65,000 landowners  
3 who own over 500,000 acres and are a part of the Willis Class. After the final approval hearing, the  
4 Court entered Judgment under the terms of the Stipulation of Settlement. The Judgment was  
5 subsequently amended by the Public Water Suppliers to include the order on attorneys' fees. A  
6 few of the Public Water Suppliers appealed the entry of Judgment insofar as it provided for an  
7 award of fees. After some preliminary appellate proceedings, the parties settled the appeal and a  
8 remittitur issued by the Court of Appeal.

9  
10           Even though a Judgment has been entered in this case, this Court retained jurisdiction over  
11 the Parties, including the Willis Class, for purposes of incorporating and merging this Judgment  
12 into a physical solution or other judgment that is *consistent* with the Willis Judgment. Recently  
13 Class Counsel was handed a draft proposed physical solution from the public water suppliers. The  
14 draft proposed physical solution subordinates if not extinguishes the correlative rights of the Willis  
15 Class. Class Counsel has made clear to all counsel that attempts to subordinate or extinguish the  
16 Class' rights will be met with vigorous opposition from the Class. Alternative terms have been  
17 proposed by Class Counsel to District 40 and to date there has been no response.

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19           The Archdiocese of Los Angeles is a member of the Willis Class. The Archdiocese owns  
20 real property within the area of adjudication and is not presently pumping water on their property,  
21 nor have they done so at any prior time. *See* Declaration of Michael T. Davitt, Director of Real  
22 Estate for the Archdiocese of Los Angeles, ¶ 2.

23  
24           Because this litigation and the coordinated proceedings will continue for many years to  
25 come, the Archdiocese seeks to become a class representative to represent the interests of the absent  
26 class members in enforcing the Judgment and participating in a physical solution *consistent* with  
27 the Willis Judgment. Given the policy favoring liberal amendments, particularly allowing for  
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1 addition of class representatives, and the absence of any prejudice to the other parties, Estrada  
2 should be permitted to add the Archdiocese as class representative.

## 3 II. ARGUMENT

### 4 **A. Substitution Of New Class Representatives Is Generally Permitted At All Stages** 5 **Of Class Action Litigation**

6 California courts regularly allow for addition of class representatives when the current class  
7 representative no longer possesses the required standing to represent the class. *See In re Tobacco*  
8 *II Cases* (2009) 46 Cal.4th 298, 328-329; *Jensen v. Royal Pools* (1975) 48 Cal.App.3d 717, 720-  
9 723 (condominium owners substituted for owners' association when association lost standing).  
10 "If... the [trial] court concludes that the named plaintiffs can no longer suitably represent the class  
11 it should at least afford plaintiffs the opportunity to amend their complaint to redefine the class, or  
12 to add new individual plaintiffs, or both, in order to establish a suitable representative." *La Sala v.*  
13 *American Sav. & Loan Assn.* (1971) 5 Cal.3d 864, 872 (emphases supplied). This rule is typically  
14 applied in situations where the class representative originally had standing, but has since lost it by  
15 intervening law or facts. *See, e.g., Branick v. Downey Savings & Loan Assn.* (2006) 39 Cal.4th  
16 235, 243.

17 This Court certified Willis as representative of a class made up of private landowners that  
18 are not presently pumping water and have not pumped water on their property. Willis represented  
19 the interests of the class through settlement with the Public Water Suppliers and the entry of  
20 Judgment in September 2011. However, sometime after entry of Judgment, Rebecca Willis sold  
21 her property in the Antelope Valley and she may arguably no longer have standing to pursue this  
22 action on behalf of the Willis class. Like the plaintiffs in *La Sala* and *Branick*, Willis may no longer  
23 be suitable in representing the class and she should be permitted to substitute new class  
24 representatives with standing to represent the absent class members.  
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1 Courts permit the substitution of class plaintiffs for prior plaintiffs who no longer have  
2 standing at any time before or after commencement of trial. *See Cal. Code Civ. Proc.* §473 (addition  
3 or substitution of name); *Cal. Code Civ. Proc.* §576 (any time through trial). Courts liberally allow  
4 such amendments in the absence of prejudice to the adverse parties. *See Higgins v. Del Faro* (1981)  
5 123 Cal.App.3d 558, 564-565. Specifically, a plaintiff may be substituted for another unless the  
6 substitute plaintiff states facts that give rise to “a wholly distinct and different legal obligation.”  
7 *Klopstock v. Superior Court* (1941) 17 Cal.2d 13, 20 (court allowed substitution when the substitute  
8 and original plaintiff sought to enforce the same liability against defendants).

10 Willis meets the standards of sections 473 and 576 because the proposed substitution is  
11 extremely limited and only adds two new plaintiffs. Willis does not seek to change the nature of  
12 the claims asserted, modify any factual or legal questions presented, or alter liability or obligations  
13 of any other party. On the contrary, Willis seeks to add the Archdiocese who is already a member  
14 of the class of injured landowners Willis has represented and who allege the same issues originally  
15 alleged by Willis. Thus, no parties will be prejudiced by this substitution. Willis only seeks to  
16 provide continued representation to the class. She does not seek to make any amendments to any  
17 pleadings outside of substituting the names of the class representatives.

19 The Willis Class already settled its claims and this Court entered Judgment approving the  
20 Willis Class’s settlement in 2011. At this stage in the litigation, substitution is only necessary to  
21 enforce the Judgment entered into between the Willis Class and Public Water Suppliers. This  
22 limited amendment done for the sole good faith purpose of protecting the class members’ interests  
23 should be granted.

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1           **B. The Proposed Class Representatives Will Adequately Represent The Interests Of**  
2 **The Class**

3           To adequately represent the class, the class representative must be part of the class,  
4 possess the same interest, and suffer the same injury as the class members. *See Global Minerals*  
5 *& Metals Corp. v Superior Court* (2003) 113 Cal.App.4th 836, 851.  
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7           The Court requested that Plaintiff renew the motion to add the Archdiocese by filing an  
8 Opt-In Form for the Archdiocese, filing a declaration showing that the “Leslie Property” was sold  
9 and is no longer owned by the Archdiocese, and by dismissing the answer filed by the Leslie  
10 Property (at a time when it was owned by the Archdiocese). Plaintiff has complied with all of the  
11 Court’s requirements and therefore the Archdiocese can officially be considered a part of the Class.  
12 *See Declaration of Michael T. Davitt, Director of Real Estate for the Archdiocese of Los Angeles,*  
13 ¶¶1-5.  
14

15           The Archdiocese and Estrada are suitable substitute class representatives because they are  
16 both already members of the class they seek to represent as defined in the original pleadings. The  
17 Archdiocese and Estrada each acquired and currently owns land in the Antelope Valley and have  
18 not pumped water on their respective properties. The Willis Class Judgment protects the overlying  
19 correlative rights of non-pumpers. Both the Archdiocese and Estrada seek to protect these same  
20 rights. Importantly, both proposed class representatives and class members would suffer the same  
21 injury to their groundwater rights should the parties’ proposed physical solution be approved.  
22 Furthermore, the Archdiocese and Estrada understand their obligations as class representatives and  
23 have agreed to replace Willis to protect the interests of the Class. As the Archdiocese and Estrada  
24 are already members of the Willis Class, possess the same interest as all of the Class Members, and  
25 are threatened with the same injury as the class members, the Court should approve the Archdiocese  
26 as a suitable class representative.  
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**III. CONCLUSION**

Willis brings this renewed motion to add the Archdiocese as class representative to ensure that the interests of the absent Class Members are protected. The proposed changes do not alter any of the substantive aspects of Willis’ case and the other parties will not suffer any prejudice from the substitution. The Archdiocese and Estrada will adequately represent the interests of the Class, as they are already members of the Class, possess the same interests as the Class, and would suffer the same injury as the Class. Accordingly, Willis respectfully requests that this Court grant Willis’s motion to add the Archdiocese as the class representative.

Respectfully submitted,

/s/ Ralph B. Kalfayan

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