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**EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103**

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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
20 Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co., Superior Court of
21 California, County of Kern, Case No. S-1500-CV-
254-348;

22 Wm. Bolthouse Farms, Inc. v. City of Lancaster,
23 Diamond Farming Co. v. City of Lancaster,
Diamond Farming Co. v. Palmdale Water Dist.,
24 Superior Court of California, County of Riverside,
Case Nos. RIC 353 840, RIC 344 436, RIC 344 668

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

Judicial Council Coordination
Proceeding No. 4408

CLASS ACTION

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

**PUBLIC WATER SUPPLIERS'
OPPOSITION TO WILLIS CLASS'
MOTION TO OBTAIN COURT
ORDER PERMITTING WILLIS
CLASS COUNSEL TO SEEK
ADDITIONAL ATTORNEYS'
FEES**

Date: March 26, 2015

Time: 10:00 a.m.

Dept.: Superior Court of California
111 North Hill Street, Rm. 222
Los Angeles, CA 90012

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1 Los Angeles County Waterworks District No. 40, City of Palmdale, City of Lancaster,
2 Rosamond Community Services District, Littlerock Creek Irrigation District, Palm Ranch
3 Irrigation District, Desert Lake Community Services District, North Edwards Water District,
4 Llano Del Rio Water Company, Llano Mutual Water Company, Big Rock Mutual Water
5 Company, Palmdale Water District, and Quartz Hill Water District (collectively “Public Water
6 Suppliers”) hereby oppose Willis Class’ Motion to obtain an order permitting its counsel to seek
7 additional attorneys’ fees as follows:

8 **I. WILLIS CLASS’ REQUEST IS INAPPROPRIATE AND PROHIBITED BY THE**
9 **STIPULATION OF THE WILLIS CLASS SETTLEMENT**

10 Despite being paid well over \$1 million in attorneys’ fees, the Willis Class is asking the
11 Court to find its counsel’s post-Judgment actions and proposed future actions to be “reasonable
12 and appropriate” and “in response to a written Court order.” (Declaration of Ralph B. Kalfayan
13 (“Kalfayan Decl.”), Ex. A, p. 17.) When the Willis Class settled its dispute with certain Public
14 Water Suppliers¹, it agreed not to seek attorneys’ fees and/or costs except in five limited
15 circumstances (*i.e.*, to undertake actions ordered by the Court, to undertake action requested by
16 the settling defendants, to enforce the Stipulation, to defend new claims, and to defend a fee
17 award). (*Id.*) As none of the those five exceptions are applicable, the Willis Class now attempts
18 to create such a circumstance by asking the Court to sanction its post-Judgment activities and
19 require it to, among other things, obtain an expert, add the Archdiocese as a Class representative,
20 file objections to the Wood Class Settlement and physical solution, and conduct extensive
21 discovery. (Motion at pp. 5-6.)

22 The Class’s Motion relies solely on Section VIII.D.(c) of the Stipulation of Settlement
23 (“Stipulation”), which provides in relevant part:

24 Willis Class Counsel agree that they will not seek any attorneys’
25 fees and/or costs from Settling Defendants for any efforts Willis
26 Class Counsel undertake after the Court’s entry of Final Judgment
27 approving the Settlement, except with respect to the following: . . .
28 (c) any reasonable and appropriate efforts by Willis Class Counsel

¹ City of Lancaster, Llano Del Rio Water Company, Llano Mutual Water Company, and Big Rock Mutual Water Company were not parties to the Stipulation of Settlement with the Willis Class.

1 that are undertaken in response to a written Court order stating that,
2 pursuant to this provision, Class counsel may seek additional fees
3 for specified efforts from Settling Defendants pursuant to Code of
4 Civil Procedure section 1021.5 (*Id.* [emphasis added])

5 Section VIII.D.(c) unequivocally applies only to Court mandated activities, in the same
6 manner that VIII.D.(d) allows reasonable and appropriate attorneys' fees for acts performed at the
7 request of the Public Water Suppliers. (*Id.*) Since the Court has not ordered the Willis Class to
8 engage in any of the activities set forth in the Motion, Willis Class' request is inappropriate and
9 contravenes the letter and spirit of the Stipulation.

10 **II. THE MOTION SEEKS ADVISORY OPINION BEYOND THE SCOPE OF THE**
11 **COURT**

12 It is the established law in California that "[t]he rendering of advisory opinions falls
13 within neither the functions nor the jurisdiction of this court." (*People ex rel. Lynch v. Superior*
14 *Court* (1970) 1 Cal. 3d 910, 912; *see also, Younger v. Superior Court* (1978) 21 Cal. 3d 102, 119-
15 120; *Garfinkle v. Wells Fargo Bank* (1982) 135 Cal. App. 3d 514, 520.) In lieu of requesting
16 fees for work actually performed, the Willis Class is seeking a declaration in the form of a court
17 order that its counsel may seek fees under the Stipulation for efforts it has not even undertaken.
18 As the class counsel has yet to perform the work for which the Willis Class seeks fees, this
19 Motion is unripe and the remedy sought is prohibited by law. (*San Bernardino Public Employees*
20 *Ass'n v. City of Fontana* (1998) 67 Cal. App. 4th 1215, 1226-27 [courts may not issue ruling on
21 matters that are not ripe for review].)

22 **III. THE WILLIS CLASS HAS NOT MET ITS BURDEN UNDER CODE OF CIVIL**
23 **PROCEDURE SECTION 1021.5**

24 Even assuming, *arguendo*, that the Stipulation permits the Willis Class to seek additional
25 fees and the request is ripe, the Class has not demonstrated that it is entitled to fees under Code of
26 Civil Procedure Section 1021.5, which provides in part:

27 Upon motion, a court may award attorneys' fees to a successful
28 party against one or more opposing parties in any action which has
 resulted in the enforcement of an important right affecting the
 public interest if: (a) a significant benefit, whether pecuniary or
 nonpecuniary, has been conferred on the general public or a large

1 class of persons, (b) the necessity and financial burden of private
2 enforcement, or of enforcement by one public entity against another
3 public entity, are such as to make the award appropriate, and (c)
4 such fees should not in the interest of justice be paid out of the
5 recovery, if any.

6 In short, to recover fees under Section 1021.5, the Willis Class must establish: (1)
7 adversity between the parties; (2) enforcement of an important right affecting public interest; (3)
8 conference of a significant benefit; (4) necessity and financial burden of private enforcement; and
9 (5) such fees should not be paid out of the recovery. The Willis Class makes no showing that is
10 has satisfied these required elements.

11 On the contrary, no adversity exists between the Willis Class and the Public Water
12 Suppliers as the parties had settled their dispute. In fact, the Willis Class admits in its Reply in
13 Support of Willis Class' Renewed Motion to Add Lead Plaintiff that "the interests of Willis Class
14 Members and the Public Water Suppliers are not merely no longer adverse; rather their interests
15 are in fact completely aligned with each other based on the rights and obligations agreed to as part
16 of the Stipulation of Settlement." (Declaration of Wendy Wang ("Wang Decl.") at 3:25-28.)
17 Moreover, while the Court previously determined that efforts undertaken by class counsel prior to
18 the Willis Class Judgment met the criteria under Section 1021.5, the Willis Class has not
19 presented any evidence regarding, nor has the Court determined, whether efforts undertaken after
20 the Willis Class Judgment met the specified criteria.

21 **IV. CONCLUSION**

22 For the above reasons, the Court should deny the Willis Class' Motion to Obtain Court
23 Order Permitting Willis Class Counsel to Seek Additional Attorneys' Fees.

24 Dated: March 13, 2015

BEST BEST & KRIEGER LLP

25 By 

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27 JEFFREY V. DUNN
28 WENDY Y. WANG
Attorneys for
LOS ANGELES COUNTY
WATERWORKS 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 South Grand Avenue, 25th Floor, Los Angeles, California 90071. On March 13, 2015, I served the within document(s):

PUBLIC WATER SUPPLIERS' OPPOSITION TO WILLIS CLASS' MOTION TO OBTAIN COURT ORDER PERMITTING WILLIS CLASS COUNSEL TO SEEK ADDITIONAL ATTORNEYS' FEES

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 March 13, 2015, at Los Angeles, California.



Rosanna R. Pérez

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