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15 Attorneys for Plaintiff

16 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
17 **COUNTY OF LOS ANGELES**

18 Coordination Proceeding  
19 Special Title (Rule 1550(b))

20 ANTELOPE VALLEY GROUNDWATER  
21 CASES

22 RICHARD A. WOOD, an individual, on  
23 behalf of himself and all others similarly  
24 situated,

25 Plaintiff,

26 v.

27 LOS ANGELES COUNTY  
28 WATERWORKS DISTRICT NO. 40; et al.

Defendants.

Judicial Council Coordination  
Proceeding No. 4408

(Santa Clara Case No. 1-05-CV-049053,  
Honorable Jack Komar)

Case No.: BC 391869

**RICHARD WOOD'S REPLY BRIEF  
IN SUPPORT OF MOTION FOR  
ORDER ALLOCATING COSTS OF  
COURT-APPOINTED EXPERT  
WITNESS**

Date: June 12, 2009  
Time: 9:00 a.m.  
Dept.: 17C

1           In response to the Opposition filed by a few of the public water supplier  
2 defendants, Plaintiff suggests that in addition to focusing on the legal issues raised in the  
3 Motion, the Court should also consider the practical realities involved in allocating and  
4 collecting the assessments at issue. First, where does the Court draw the line at who  
5 pays? There are by now nearly one thousand parties named and served in this litigation.  
6 Do all of them have to pay? What about those who will be joined in the near future?  
7 Should they be assessed retroactively; will those who have paid receive a credit; who is  
8 to keep the accounting; and who is to police those that do not pay? The United States  
9 benefits from this adjudication ultimately, should it be deemed comprehensive and its  
10 right determined. Should it be made to pay even though it is not technically subject to the  
11 Court's jurisdiction?

12           Second, if we expand the list beyond the public water supplier defendants in the  
13 Small Pumper class action, how do we divide up the costs?

14           The amount of costs at issue are so relatively small that creating a large  
15 administrative procedure for billing and collection among hundreds of parties will  
16 consume more legal resources than the costs at issue. It is much easier just to shift the  
17 costs to the water suppliers. If they do not want to pay them, they of course have the  
18 option of dropping their prescription claims against the Class.

19           With regard to the Response filed by the State of California, Plaintiff takes issue  
20 with the last paragraph, which suggests that there is no motion before the Court allowing  
21 the Court to apportion these expenses to all parties, or some group larger than the public  
22 water suppliers. This is incorrect. The motion requests an allocation under Section 731,  
23 and suggests such an allocation, but that suggest in no way limits the Court's ruling on  
24 this matter. In any event, the Court could issue an order sua sponte apportioning these  
25 costs. Because these court appointed expert expenses will be incurred in the near future,  
26 upon issuance of the class notice, the Court should rule now.

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DATED: June 5, 2009

LAW OFFICES OF MICHAEL D. McLACHLAN  
LAW OFFICE OF DANIEL M. O'LEARY

By: \_\_\_\_\_ //s//  
Michael D. McLachlan  
Attorneys for Plaintiff

**PROOF OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action. My business address is 523 West Sixth Street, Suite 215, Los Angeles, California 90014.

On June 5, 2009, I caused the foregoing document(s) described as **RICHARD WOOD'S REPLY BRIEF IN SUPPORT OF MOTION FOR ORDER ALLOCATING COSTS OF COURT-APPOINTED EXPERT WITNESS**

be served on the parties in this action, as follows:

- (X) (BY ELECTRONIC SERVICE) by posting the document(s) listed above to the Santa Clara County Superior Court website: [www.scefiling.org](http://www.scefiling.org) regarding the Antelope Valley Groundwater matter.
- ( ) (BY U.S. MAIL) I am readily familiar with the firm's practice of collection and processing of documents for mailing. Under that practice, the above-referenced document(s) were placed in sealed envelope(s) addressed to the parties as noted above, with postage thereon fully prepaid and deposited such envelope(s) with the United States Postal Service on the same date at Los Angeles, California, addressed to:
- ( ) (BY FEDERAL EXPRESS) I served a true and correct copy by Federal Express or other overnight delivery service, for delivery on the next business day. Each copy was enclosed in an envelope or package designed by the express service carrier; deposited in a facility regularly maintained by the express service carrier or delivered to a courier or driver authorized to receive documents on its behalf; with delivery fees paid or provided for; addressed as shown on the accompanying service list.
- ( ) (BY FACSIMILE TRANSMISSION) I am readily familiar with the firm's practice of facsimile transmission of documents. It is transmitted to the recipient on the same day in the ordinary course of business.
- (X) (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- ( ) (FEDERAL) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

\_\_\_\_\_  
//s//  
Carol Delgado