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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  
SUPPLEMENTAL BRIEF RE  
MOTION FOR ALLOCATION OF  
COURT-APPOINTED EXPERT  
WITNESS FEES**

Date: March 8, 2010  
Time: 10:00 a.m.  
Dept.: 1

1           **A.     Prior History Relevant to Allocation of Court-Appointed Expert**  
2                           **Witness Fees.**

3           On April 24, 2009, the Court granted Plaintiff's motion for a court-appointed  
4 expert, thereby designating Timothy Thompson of Entrix to perform expert services  
5 relative to the assessment of water use of the Small Pumpers' class. (Exhibit 1.) At that  
6 time, the Court stayed the order pending allocation of the expert expenses. (*Ibid.*)  
7 However, on May 6, 2009, by Stipulation of the parties, the Court ordered the stay lifted.  
8 (Exhibit 2.)

9           The only remaining issue at that time, and currently, was and is the allocation of  
10 the fees for the Court appointed expert. On May 12, 2009, Plaintiff filed his Motion for  
11 an Order Allocating Costs of Court-Appointed Expert Witness, which was originally set  
12 for hearing on June 5, 2009. (Docket No. 2649.) This Motion has been continued  
13 numerous times, largely due to the prospect of settlement, and remains pending and set  
14 for hearing on March 8, 2010.

15           The scope of the motion is unchanged, other than to note that Plaintiff will shortly  
16 dismiss Mojave Public Utilities District, which was previously dismissed from the Willis  
17 case.

18           **B. The Services Currently at Issue**

19           The Water Suppliers have taken favorably to the Court's suggestion of a Phase 3  
20 trial date this summer. Whether or not the class cases ultimately settle, a trial date before  
21 August will almost certainly obligate class counsel to represent the classes at that trial,  
22 because of the real possibility that such settlement may not be approved. The Public  
23 Water Suppliers have publicly stated at the last hearing that they fully understand the  
24 early trial date will generate additional work by class counsel and the Court-appointed  
25 expert, and have voiced no objection to this tradeoff.

26           Since the Phase 3 trial will involve issues of safe yield and overdraft, the court  
27 appointed expert will need to testify about the water use of the Small Pumpers' Class

1 members. To this point, no expert has conducted an analysis of the water use of the class  
2 members. The determination of overdraft will require the presentation of evidence on the  
3 water use in the basin, including that of the class members.

4 Attached as Exhibit 3 is a current budget prepared by Mr. Thompson for the work  
5 necessary for the phase 3 trial. (Exhibit 4.) Additionally, there is an outstanding bill  
6 from Entrix for \$4,784.68 related to work performed in evaluating the case and assisting  
7 in the various motions for appointing Entrix and Mr. Thompson.

8 The Court should allocate these expenses among the Public Water Suppliers, as set  
9 forth in the Motion. If the Court wishes to set an early trial date, this issue must be  
10 resolved now, because it will take several months to complete the necessary work.

11  
12 DATED: March 2, 2010

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

13  
14  
15 By: \_\_\_\_\_ //s//

16 Michael D. McLachlan  
17 Attorneys for Plaintiff  
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1 **PROOF OF SERVICE**

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

5 On March 3, 2010, I caused the foregoing document(s) described as **RICHARD WOOD'S  
6 SUPPLEMENTAL BRIEF RE MOTION FOR ALLOCATION OF COURT-  
7 APPOINTED EXPERT WITNESS FEES**

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

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

29 \_\_\_\_\_ //s//  
30 Carol Delgado