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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

**SMALL PUMPER CLASS' FURTHER
SUPPLEMENTAL BRIEF RE:
(1) ALLOCATION OF COURT-
APPOINTED EXPERT WITNESS
FEES; (2) DISQUALIFICATION
MOTION**

Date: May 6, 2010
Time: 9:00 a.m.
Dept.: 1 (telephonic)

1 Plaintiff Richard Wood (“the Small Pumper Class”) submits this brief regarding
2 the allocation of court appointed expert fees and the pending disqualification motion.

3 **A. Allocation of Court-Appointed Expert Witness Fees.**

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

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. On March 8, 2010, the Court
14 held a hearing on this motion the Court ruled as follows:

15 THE COURT: . . .

16 So that if – at this point, the fees are reasonable. It seems to me that the litigation
17 that was initiated here by the public water suppliers is what has resulted in the
18 requirement that the Court order those expert fees. And I’m going to order that
19 they be paid by the public water suppliers in this case who have initiated this
20 proceeding.

21 (Hearing Transcript, March 8, 2010, 14:23-15:1.)

22 However, the Court did not make any specific allocation of the \$4,784.68 Entrix
23 bill (which is now a year old), and the Public Water Suppliers have subsequently refused
24 to pay it.

25 On March 25, 2010, Plaintiff filed a proposed order that the twelve public water
26 suppliers pay this bill, in equal shares of \$398.72. The cities of Lancaster and Palmdale

1 have objected on the basis that they dropped their claims of prescription after Plaintiff
2 filed this suit, and as such should not be lumped in with the public water suppliers.
3 While Plaintiff disagrees with the suggestion that these two entities are not exposed to
4 costs occurred in the filing of the class complaints, Plaintiff has no objection to the Court
5 splitting the bill among the ten “true” water suppliers. At this point, the legal billing
6 generated in fighting this issue has far out-stripped the total amount of the bill, and the
7 issue should simply be put to rest.

8 The Court has heard no other objection to the allocation suggested in the moving
9 paper and in the proposed order. If the Court is inclined to relieve the cities, then the bill
10 should be split among the following ten public water suppliers, each in the amount of
11 \$478.47: Rosamond Community Services District, Los Angeles County Waterworks
12 District No. 40, Littlerock Creek Irrigation District, Palm Ranch Irrigation District, North
13 Edwards Water District, Desert Lake Community Services District, California Water
14 Service Company, Quartz Hill Water District, the City of Lancaster, the Palmdale Water
15 District, and Phelan Pinon Hills Community Services District.

16 The Court should also order it to be paid within 15 days.

17 **B. Disqualification Motion**

18 The Court has not yet issued a ruling regarding that motion, but has given
19 indication that it would deny the motion. Plaintiff will submit a proposed order to that
20 effect.

21
22 DATED: April 30, 2010

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

23
24
25 By: _____ //s//

26 Michael D. McLachlan
27 Attorneys for Plaintiff

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 10490 Santa Monica Blvd., Los
4 Angeles, California 90025.

5 On April 30, 2010, I caused the foregoing document(s) described as **SMALL PUMPER**
6 **CLASS' FURTHER SUPPLEMENTAL BRIEF RE: (1) ALLOCATION OF**
7 **COURT-APPOINTED EXPERT WITENSS FEES; (2) DISQUALIFICATION**
8 **MOTION** 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 regarding the Antelope Valley
11 Groundwater matter.
12
13 () (BY U.S. MAIL) I am readily familiar with the firm's practice of collection and
14 processing of documents for mailing. Under that practice, the above-referenced
15 document(s) were placed in sealed envelope(s) addressed to the parties as noted above,
16 with postage thereon fully prepaid and deposited such envelope(s) with the United States
17 Postal Service on the same date at Los Angeles, California, addressed to:
18
19 () (BY FEDERAL EXPRESS) I served a true and correct copy by Federal Express or other
20 overnight delivery service, for delivery on the next business day. Each copy was
21 enclosed in an envelope or package designed by the express service carrier; deposited in a
22 facility regularly maintained by the express service carrier or delivered to a courier or
23 driver authorized to receive documents on its behalf; with delivery fees paid or provided
24 for; addressed as shown on the accompanying service list.
25
26 () (BY FACSIMILE TRANSMISSION) I am readily familiar with the firm's practice of
27 facsimile transmission of documents. It is transmitted to the recipient on the same day in
28 the ordinary course of business.
29
30 (X) (STATE) I declare under penalty of perjury under the laws of the State of California that
31 the above is true and correct.
32
33 () (FEDERAL) I declare under penalty of perjury under the laws of the United States of
34 America that the foregoing is true and correct.

35 _____ //s//
36 Ana Horga