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15 Attorneys for Plaintiff Richard Wood and the Class

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

Coordination Proceeding  
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER  
CASES

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

Plaintiff,

v.

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

Defendants.

Judicial Council Coordination  
Proceeding No. 4408

Lead Case No. BC 325201

Case No.: BC 391869

**RICHARD WOOD'S DISCOVERY  
CONFERENCE BRIEF AND EX  
PARTE APPLICATION TO  
CONTINUE HEARING ON MARK  
RITTER'S MOTION TO SET  
ASIDE JUDGMENT;  
DECLARATION OF MICHAEL D.  
MCLACHLAN**

Date: January 21, 2016  
Time: 1:30 p.m.  
Place: Telephonic (Courtcall)

1 **I. INTRODUCTION**

2 The Ritter Trust has been a party to this litigation since 2005, when the  
3 several individual cases transitioned to the coordinated proceeding. The Ritter  
4 Trust, through its counsel of record, filed well in excess of 100 filings in these  
5 actions over a more than seven years. On December 14, 2012, in response to  
6 orders of this Court, the Ritter Trust filed its Notice of Intent to Participate in the  
7 Phase 4 Trial. However, the Ritter Trust did not appear at the Phase 4 trial to  
8 establish its current groundwater production (nor did it file the Court-ordered  
9 discovery required for Phase 4).

10 The Ritter Trust has continued to be Party to this litigation, but chose to  
11 ignore this Court's Case Management Orders for the most recent phase of trial,  
12 often referred to as Phase 6. The Ritter Trust did not file a Notice of Claim,  
13 failed to participate in discovery, and otherwise ignored all of this Court's Orders  
14 leading up to the Phase 6 Trial. The Ritter Trust made no application for relief  
15 from the Case Management Order, nor did it file any formal motion to be  
16 severed. In support of its Motion to Set Aside the Judgment, Ritter now claims  
17 that the Court stated that Ritter could have its claims severed. (Brumfield Decl.,  
18 ¶ 6.) Yet, there is no order to that effect, nor even a Court transcript supporting  
19 this fictional event.

20 Counsel for Richard Wood has requested that Mr. Ritter appear for  
21 deposition in sufficient time prior to the due date for filing opposition papers.  
22 Mr. Ritter, through counsel, has refused to appear for deposition. For this  
23 reason, Plaintiff has set this informal discovery conference prior to filing a notice  
24 motion to compel the deposition.

25 By way of this Ex Parte Application, Plaintiff asks that the Court continue  
26 the hearing on the Motion to Set Aside the Judgment to a date to be determined  
27 at the hearing on this Application. If Mr. Ritter agrees to be deposed, then the  
28 hearing date should be continued to a time that will allow for the deposition to

1 occur at least a week prior to the due date for Opposition papers to be filed and  
2 served. If a notice motion to compel must be filed, then the hearing date should  
3 be taken off calendar and reset after the motion to compel is heard.

## 4 **II. FACTAUL BACKGROUND**

### 5 **A. The Ritters and the Ritter Trust Were Named in 2005 and** 6 **Answered Through Counsel.**

7 On November 2, 2005, Los Angeles County Waterworks District No. 40  
8 (“District 40”) filed its first sizeable Doe amendment, naming numerous  
9 landowner parties, including Edgar C. Ritter, Paula E. Ritter, and Paula E. Ritter  
10 (collectively, “The Ritters”). (McLachlan Decl., Ex. 1 (“Amendment to  
11 Complaint,” filed November 2, 2005.) It appears that the Ritter’s first appeared  
12 in the action through counsel on November 28, 2005. On that date, attorneys  
13 Michael Fife and Bradley Herrema, then at the firm of Hatch & Parent, filed a  
14 Case Management Conference Statement listing the Ritters as members of the  
15 Antelope Valley Ground Water Agreement Association (“AGWA”). (Ex. 2.) The  
16 Ritter’s continued to be listed among AGWA’s members for approximately seven  
17 and one-half years, formally participating in phases one through four of the trial  
18 proceedings. (McLachlan Decl., ¶ 5.)

### 19 **B. The Ritters Litigated Their Claims Through Counsel for** 20 **Over Seven Years, Then Disappeared.**

21 On January 18, 2006, the public water suppliers filed their initial Cross-  
22 Complaint, naming a number of larger landowners as cross-defendants,  
23 including Edgar C. Ritter, Paula E. Ritter, and Paula E. Ritter, as trustee of the  
24 Ritter Family Trust. (Ex. 3, (“Cross-Complaint of Municipal Purveyors For  
25 Declaratory and Injunctive Relief and Adjudication of Water Rights”), 6:1-3  
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1 [Dkt. No. 134].)<sup>1</sup> On January 2, 2007, the Ritters filed their Answer. (Ex. 4  
2 (“Answer to All Cross-Complaints”) [Dkt. No. 411].) On that same date, the  
3 Ritter’s filed a Cross-Complaint which remains pending to this date.  
4 (McLachlan Decl., Ex. 5 [Dkt. No. 412].)

5 On September 9, 2008, the Court issued its “Case Management Order For  
6 Phase 2 Trial,” requiring parties to file a notice of intent to participate in that  
7 phase of trial. [Dkt. 1929, at ¶ 9.] The Ritters complied with that Order by filing  
8 such notice. (Ex. 6 [Dkt. No. 1978].) The Ritters continued as active litigants –  
9 continuously represented by the Brownstein Hyatt firm – and again four years  
10 later, pursuant to Court order, they filed a notice of intent to participate in the  
11 Phase 4 trial. (McLachlan Decl., Ex. 7, (“AGWA’s Notice of Intent to Participate  
12 in Phase Four Trial”), filed December 14, 2012 [Dkt. No. 5413].)<sup>2</sup> Phase 4 was  
13 the portion of these trial proceedings designated for parties to establish current  
14 groundwater pumping.

15 The Brownstein Hyatt firm continued to represent the Ritters on filings  
16 with this Court through the end of February of 2013, but after that time, they  
17 disappeared from the pleadings and do not re-surface. (McLachlan Decl., ¶ 5; Ex.  
18 10 (“Notice of Ex Parte Application for Approval of Stipulation [of Facts for  
19 Phase IV trial], filed March 15, 2013 [Dkt. No. 6189].) There appears to be no  
20 record of the filing of a substitution of counsel, a motion to withdraw, any other  
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22 <sup>1</sup> The Ritter parties were named as defendants in at least one earlier Cross  
23 Complaint. (*See, e.g.*, Cross-Complaint of City of Palmdale, filed December 1,  
2005 [Dkt. 66].)

24 <sup>2</sup> The Phase 4 Case Management Orders required parties to provide  
25 detailed discovery disclosures under penalty of perjury by January 31, 2013.  
26 (McLachlan Decl., Exs. 8 & 9.) The Brownstein Hyatt firm filed  
27 approximately 25 separate declarations on behalf of its various AGWA  
28 group clients on January 30 and 31, 2013, but nothing was filed for the  
Ritters. (McLachlan Decl., ¶ 12.)

1 written notice to the Court, nor any mention of the Ritters at the ensuing Phase 4  
2 trial, which occurred two months later. The Ritters simply disappeared until  
3 September of 2015. (McLachlan Decl., ¶ 14.)

4 **C. The Ritter Trust Re-Surfaces in September of 2015**

5 On March 27, 2015, the Court signed the Second Amended Case  
6 Management Order for what has become to be known as the Phase 6 trial, i.e.  
7 the prove-up of the “global” stipulated settlement. (Ex. 11.) That Order set forth,  
8 among others, the following deadlines: (1) non-stipulating parties to file and  
9 serve a Notice of Claim by April 7, 2015 (*id.* at ¶ 3); (2) all parties to disclose  
10 witnesses and exhibits by April 27, 2015 (¶ 4); and (3) completion of discovery  
11 by July 17, 2015. The Ritters complied with none of these deadlines, and indeed,  
12 to this date, have not filed a notice of claim or any discovery-related documents  
13 in response to any of the Court’s various Orders over the years. (McLachlan  
14 Decl., ¶ 15.)

15 On September 3, 2015, attorney Robert Brumfield filed a Case  
16 Management Conference Statement on behalf of the Ritter Family Trust, which  
17 appears to be the first filing by the Ritters in over two years. (McLachlan Decl.,  
18 Ex. 12. [Dkt. No. 10,388].) In that filing, Mr. Brumfield states that on August 14,  
19 2015, he met with Mark Ritter, the son of Edgar and Paula Ritter, and successor  
20 trustee to the Ritter Family Trust about the Trusts potential claim to  
21 groundwater. (Ex. 12, 2:5-16.) Mr. Brumfield also stated that he would take  
22 steps to have the Brownstein Hyatt firm execute the necessary Substitution of  
23 Attorney form because that firm was still counsel of record for the Ritters. (*Id.*  
24 at 2:8-10, 2:23-25.)

25 To date, no Substitution of Counsel has been filed, and Mr. Brumfield has  
26 never made a request for relief to present a late claim, relief from the various  
27 Phase 6 trial deadlines, or made any request to sever the Ritter Trust claim. Not  
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1 until October 30, 2015 – after the close of evidence and on the eve of closing  
2 arguments – did Mr. Brumfield make any mention of the Ritter Trust’s claim.  
3 (McLachlan Decl., ¶ 17.)

4 During the October 30, 2015 status conference, attorney Michael Fife  
5 represented to the Court that “no attorney-client relationship was ever formed”  
6 and that Paula Ritter considered joining AGWA but never did, never signed a  
7 retainer agreement, and never paid any portion of his legal bills. (McLachlan  
8 Decl., ¶ 18.)<sup>3</sup>

9 Finally, although Paula Ritter died on November 30, 2010,<sup>4</sup> it appears that  
10 she was fully aware of the pendency of this litigation because she signed a Notice  
11 of Acknowledgement of Receipt for the public water suppliers’ First Amended  
12 Cross-Complaint. (Ex. 13.)

13 **D. Mark Ritter Refuses to Account for His More Than Five**  
14 **Years as Successor Trustee, And Instead Erroneously**  
15 **Asserts that the Court Severed His Claim.**

16 In the prior filings regarding the Ritter claim, Plaintiff has raised very  
17 pointed questions about why Mark Ritter took no steps to comply with the  
18 Court’s Phase 4 and Phase 6 Case Management Orders, among a litany of other  
19 questions relevant to the Motion to Set Aside, which is premised solely on an  
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22 <sup>3</sup> In light of the history set forth above, this representation strains  
23 credulity to the breaking point. However, it must be true that no attorney-client  
24 relationship could have been formed with Edgar Ritter because he died in  
25 February of 1992, approximately seven years prior to the filing of the initial  
26 Complaints in this action:

27 [http://articles.latimes.com/1992-02-25/local/me-2623\\_1\\_ritter-s-name](http://articles.latimes.com/1992-02-25/local/me-2623_1_ritter-s-name)  
28 (Ex. 14.)

29 <sup>4</sup> Paula E. Ritter’s *Antelope Valley Press* obituary notice:  
30 <http://www.avpress.com/obit-archive.php?obit=31026851>  
(Ex. 15.)

1 assertion of mistake and excusable neglect under C.C.P. section 473(b).  
2 (Motion, 4:16-25.) On three occasions, Ritter’s counsel has stated that he would  
3 address these questions in a declaration filed by Mr. Ritter. (McLachlan Decl. ¶  
4 23.) However, Ritter has repeatedly refused to file such a declaration, and has  
5 instead opted to base his Motion on the manufactured belief that the Court had  
6 severed his claim a few months ago.

7 The September 21, 2015 hearing was not reported, and so there is not  
8 transcript of that hearing. But the minute order for that hearing, which is quite  
9 detailed in its narrative, states nothing about any severance. Indeed, it does not  
10 even mention Ritter. (McLachlan Decl., Ex. 16.) The docket does not reflect any  
11 Ritter-filed motion or ex parte application on that date either. Contrast this with  
12 the prior hearing of September 4, 2015, at which time the Robar severance was  
13 actually discussed and memorialized in a written order.

14 The minute order for September 4, 2015 expressly addresses the Ex Parte  
15 Application filed by Robar et al., which was granted the motion. (McLachlan  
16 Decl., Ex. 17.) The Court noted in that minute order that “matters that are late  
17 served will ‘trail’ the case while they gather their evidence of pumping and try to  
18 enter into the proposed settlement.”<sup>5</sup> The September 4 order, which Ritter does  
19 not cite in his Motion, makes no reference to Ritter obtaining any relief. Mr.  
20 Brumfield attended that hearing, and so must have understood that his client  
21 had not been severed, yet he chose not to file an appropriate motion or ex parte  
22 application in the manner that Robar did. (Ex. 17 (Courtcall Attendance List, p.  
23 5.)

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27 <sup>5</sup> Although this order does not name any other parties, the Ritter Trust  
28 cannot fall within the scope of “late” served, having been a party for more than a  
decade. (See Section II.A, above.)

1           **E.     Mark Ritter Refuses to Appear for Deposition.**

2           Immediately upon filing of the Motion, Plaintiff requested that Mark  
3 Ritter appear for deposition. (McLachlan Decl., Ex. 18, pp. 4-5.) Through  
4 counsel, Mr. Ritter refused. (*Ibid.*) On January 15, Plaintiff served a deposition  
5 notice. ((McLachlan Decl., Ex. 19.) On January 19, 2015, Ritter served an  
6 objection to that deposition notice, stating that Ritter would not appear at the  
7 deposition. (McLachlan Decl., Ex. 20, 2:11-12.)

8           **III.    ARGUMENT**

9           The first premise of Ritter’s position is that this deposition is not relevant  
10 because the Motion to Set Aside the Judgment is solely premised on Ritter’s  
11 purported belief that his claim had been severed. (Ex. 18, p. 3.) Ritter  
12 apparently believes that by framing the Motion in this fashion, the more than  
13 five years of prior history as successor trustee become totally irrelevant to the  
14 question of Mark Ritter’s diligence, and hence to his entitlement to relief under  
15 Section 473. The Motion cites to the mandatory relief provisions of Section  
16 473(b) – i.e. attorney fault – but also quotes law under the discretionary  
17 provisions of that section relating to client mistake or neglect. (*cf.* Motion, 4:16-  
18 22 and 5:13-7:18.) As such, the basis for the Motion is at best unclear.

19           However, whichever basis for relief under Section 473 Ritter is relying  
20 upon, his entire course of conduct as successor Trustee, and indeed the history  
21 of the Ritter Trust as a party to this action , is relevant to the question of whether  
22 the Ritter Trust is entitled to relief under Section 473. As Ritter notes in this  
23 Motion, for “[n]eglect to be the basis for relief under Section 473, [it] must have  
24 been an act or omission of a reasonably prudent person under the same  
25 circumstances.” (*Beeman v. Burling* (1990) 216 Cal.App.3d 1586, 1602-03.)  
26 The lack of a declaration by Mr. Ritter leaves us to wonder about the nature of  
27 his mistake or neglect. Conversely, the presence of two attorney declarations  
28 without a client declaration suggests that Ritter may in fact be relying on the



1 mandatory relief provisions occurring when the mistake, inadvertence, or  
2 neglect was solely by counsel. But even if that is the case, Ritter cannot obtain  
3 mandatory relief from the judgment based upon his attorneys' neglect if he also  
4 "contribute[d] to the conduct which caused the default or dismissal." (*Lang v.*  
5 *Hochman* (2000) 77 Cal.App.4<sup>th</sup> 1225, 1248.) In short, Ritter's own conduct  
6 during his more than five years as successor trustee of the Ritter Trust is entirely  
7 relevant to the Motion.

8 Put in a factual context, the Ritter Trust never gets to the "four-alarm fire"  
9 stage with this claim if it appears and presents the required evidence of current  
10 pumping at the Phase 4 trial, or if the Trust participates in discovery and timely  
11 presents a claim at the Phase 6 trial. If Mr. Ritter and the Ritter Trust had  
12 diligently pursued the claim, he never has to seek a severance of his claim. And  
13 on that last point, Ritter – unlike the Robar parties – never filed a formal motion  
14 for severance or any motion for relief from the Court's Phase 4 or Phase 6 orders  
15 until after judgment was entered against him. And Ritter had two months  
16 advance warning that he would be subject to the Request for Judgment, but just  
17 continued to sit on his hands.

18 The second component of Ritter's position seems to be that Plaintiff  
19 cannot take his deposition. Plaintiff is not aware of any provision in the Civil  
20 Discovery Act that limits his right to take the deposition in this context. Ritter  
21 has yet to cite any authority on point. The primary means of restricting  
22 discovery in a pending civil case is that a "trial court is authorized to limit the  
23 scope of discovery where 'the burden, expense, or intrusiveness of that discovery  
24 clearly outweighs the likelihood that the information sought will lead to the  
25 discovery of admissible evidence.'" (C.C.P. § 2017.020(a).) Otherwise, the right  
26 to discovery is very broad:

27 In establishing the statutory methods of obtaining discovery, it was the  
28 intent of the Legislature that discovery be allowed whenever consistent

1 with justice and public policy. The statutory provisions must be liberally  
2 construed in favor discovery and the courts must not extend the statutory  
3 limitations on discovery beyond the limits expressed by the Legislature.

4 (*Irvington-Moore, Inc. v. Superior Court* (1993) 14 Cal.App.4<sup>th</sup> 733, 738-39.)

5 While the current procedure posture is no doubt not common, Plaintiff  
6 can find no published decision prohibiting discovery. But at least one published  
7 decision, by strong implication, suggests that such discovery is authorized and  
8 appropriate. (*Carolina Casualty Ins. Co. v. L.M. Ross Law Group, LLP* (2012)  
9 212 Cal.App.4<sup>th</sup> 1181, 1195-97 (discussing discovery in the context of a motion to  
10 amend a judgment, and not stating that such discovery is prohibited).)

11 For these reason, Ritter should properly be compelled to attend a  
12 deposition on this limited issue so that the record on his Motion can be fully  
13 developed.

14 **IV. CONCLUSION**

15 For the foregoing reasons, Plaintiff requests that the Court continue the  
16 hearing on Ritter’s Motion to Set Aside the Judgment until a three weeks after  
17 Mr. Ritter’s deposition or, alternatively, if a noticed motion to compel is  
18 required, that the hearing date be vacated and reset after the hearing on the  
19 motion to compel.

20 DATED: January 19, 2016

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

24 By: \_\_\_\_\_  
25 Michael D. McLachlan  
26 Attorneys for Plaintiff Richard Wood

1 **DECLARATION OF MICHAEL D. MCLACHLAN**

2  
3 I, Michael D. McLachlan, declare:

4 1. I make this declaration of my own personal knowledge, except where  
5 stated on information and belief, and if called to testify in Court on these matters,  
6 I could do so competently.

7 2. I am co-counsel of record of record for Plaintiff Richard Wood and  
8 the Small Pumper Class, and am duly licensed to practice law in California.

9 3. Attached as "Exhibit 1" is a true and correct copy of the relevant  
10 pages of District 40's "Amendment to Complaint," filed November 2, 2005.

11 4. Attached as "Exhibit 2" is a true and correct copy of the November  
12 28, 2005 Case Management Conference Statement filed by attorneys Michael  
13 Fife and Bradley Herrema, then at the firm of Hatch & Parent, listing the Ritters  
14 as members of the Antelope Valley Ground Water Agreement Association  
15 ("AGWA").

16 5. My staff and I have undertaken to review the AGWA filings in this  
17 matter. The Ritter's were consistently listed among AGWA's members for  
18 approximately seven and one-half years (until March of 2013). The Ritters do  
19 not appear on the AGWA filings thereafter. We have not counted the total  
20 number of filings made by the Ritters through AGWA, but they are well in excess  
21 of 100 and likely more than 200 in total.

22 6. Attached as "Exhibit 3" is a true and correct copy of the public water  
23 suppliers' initial Cross-Complaint, naming a number of larger landowners as  
24 cross-defendants, including Edgar C. Ritter, Paula E. Ritter, and Paula E. Ritter,  
25 as trustee of the Ritter Family Trust.

26 7. On January 2, 2007, the Ritters filed their Answer, a true and  
27 correct copy of which is attached as "Exhibit 4."

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1           8.       Attached as “Exhibit 5” is a true and correct copy of the  
2 AGWA/Ritter Cross-Complaint, which remains pending to this date.

3           9.       Attached as “Exhibit 6” is a true and correct copy of the AGWA  
4 Notice of Intent for Phase 2.

5           10.      Attached as “Exhibit 7” is a true and correct copy of “AGWA’s Notice  
6 of Intent to Participate in Phase Four Trial,” filed December 14, 2012 [Dkt. No.  
7 5413].) Phase 4 was the portion of these trial proceedings designated for parties  
8 to establish current groundwater pumping.

9           11.      Attached as “Exhibit 8” and “Exhibit 9” are true and correct copies of  
10 The Phase 4 Case Management Orders requiring parties to provide detailed  
11 discovery disclosures under penalty of perjury by January 31, 2013.

12           12.      The Santa Clara Superior Court docket for this matter shows that the  
13 Brownstein Hyatt firm filed approximately 25 separate declarations on behalf of  
14 its various AGWA group clients on January 30 and 31, 2013, but nothing was  
15 filed for the Ritters.

16           13.      I have reviewed the Brownstein Hyatt firm filings in 2012 and early  
17 2013. That firm continued to represent the Ritters on filings with this Court  
18 through the end of February of 2013, but after that time, they disappeared from  
19 the pleadings and do not re-surface. The first pleading in which the Ritters  
20 appear to have been dropped was the “Notice of Ex Parte Application for  
21 Approval of Stipulation [of Facts for Phase IV trial], filed March 15, 2013 [Dkt.  
22 No. 6189].) Attached as “Exhibit 10” is a true and correct copy of that filing.

23           14.      I can find no record on the Court docket of the filing of a  
24 substitution of counsel, a motion to withdraw, any other written notice to the  
25 Court, nor any mention of the Ritters at the ensuing Phase 4 trial, which  
26 occurred two months later. The Ritters simply disappeared until September of  
27 2015.

28

1           15.    On March 27, 2015, the Court signed the Second Amended Case  
2 Management Order for what has become to be known as the Phase 6 trial, i.e.  
3 the prove-up of the “global” stipulated settlement, a true and correct copy of  
4 which is attached as “Exhibit 11.” That Order set forth, among others, the  
5 following deadlines: (1) non-stipulating parties to file and serve a Notice of  
6 Claim by April 7, 2015 (*id.* at ¶ 3); (2) all parties to disclose witnesses and  
7 exhibits by April 27, 2015 (¶ 4); and (3) completion of discovery by July 17, 2015.  
8 I find not record that the Ritters complied with any of these deadlines, and  
9 indeed, to this date, they have not filed a notice of claim or any discovery-related  
10 documents in response to any of the Court’s various Orders over the years.

11           16.    Attached as “Exhibit 12” is a true and correct copy of the September  
12 3, 2015, Case Management Conference Statement filed by attorney Robert  
13 Brumfield.

14           17.    To date, Mr. Brumfield has not filed a motion for request for relief  
15 to present a late claim, relief from the various Phase 6 trial deadlines, or pursued  
16 a motion to sever the Ritter Trust claim. I was present during the Phase 6 Trial  
17 and do not recall any mention of the Ritters until the status conference on  
18 October 30, 2015.

19           18.    I participated in the telephonic status conference on October 30,  
20 2015, during which attorney Michael Fife represented to the Court that “no  
21 attorney-client relationship was ever formed” and that Paula Ritter considered  
22 joining AGWA but never did, never signed a retainer agreement, and never paid  
23 any portion of his legal bills.

24           19.    Attached as “Exhibit 13” is a true and correct copy of the Notice of  
25 Acknowledgement of Receipt signed by Paula Ritter.

26           20.    Attached as “Exhibit 14” is a true and correct copy of the obituary  
27 for Edgar Ritter.

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1           21. Attached as “Exhibit 15” is a true and correct copy of the obituary  
2 for Paula Ritter.

3           22. The stipulating parties negotiated extensively from late 2013  
4 through early 2015 to arrive at the “global” stipulated settlement. A major part  
5 of those negotiations were allocation of water rights. Over the past two years,  
6 until recently, I have not heard of any mention by counsel for AGWA of the  
7 Ritter Trust or their claim.

8           23. On three occasions, Mr. Brumfield has told me, either in person or  
9 by telephone, that he would file a declaration by Mark Ritter that would address  
10 the questions of what Mr. Ritter did to pursue this litigation during his more  
11 than five year tenure as successor trustee. To date, no such declaration has been  
12 filed.

13           24. The September 21, 2015 hearing was not reported, and so there is  
14 not transcript of that hearing. A true and correct copy of the Minute Order for  
15 that hearing is attached as “Exhibit 16.”

16           25. A true and correct copy of the Minute Order for the hearing of  
17 September 4, 2015 is attached as “Exhibit 17.”

18           26. I have met and conferred extensively with Mr. Brumfield by  
19 electronic mail about the issues raised in this Application. The primary  
20 exchanges (primarily that which is suitable for publication) is attached as  
21 “Exhibit 18.”

22           27. On January 15, 2016, I served a deposition notice through the  
23 Court’s website. A true and correct copy of that deposition notice is attached as  
24 “Exhibit 19.”

25           28. On January 19, 2015, Ritter served an objection to that deposition  
26 notice, stating that Ritter would not appear at the deposition. A true and correct  
27 copy of Ritter’s objection to the deposition notice is attached as “Exhibit 20.”  
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1 I declare under penalty of perjury under the laws of the State of California  
2 that the foregoing is true and correct. Executed this 19<sup>th</sup> day of January, 2016, at  
3 Hermosa Beach, California.

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7 Michael D. McLachlan  
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