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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  
(Honorable Jack Komar)

Lead Case No. BC 325201

Case No.: BC 391869

**DECLARATION OF MICHAEL D.  
MCLACHLAN IN SUPPORT OF  
SUPPLEMENTAL MOTION FOR  
AWARD OF ATTORNEYS' FEES  
AND COSTS**

Location: Room 222  
Stanley Mosk Courthouse  
Los Angeles, California  
Date: July 20, 2016  
Time: 10:00 a.m.



1 was critical in our ability to function in this matter for over five years without aid  
2 of a retained hydrogeology expert. Furthermore, at no point did Class Counsel  
3 consult with any water lawyers – in making this observation in its April 25, 2016  
4 order, the Court is perhaps confusing the Small Pumper Class Counsel with the  
5 Willis Class Counsel.

6 6. At the time of the hearing on this Motion, it will be just two weeks  
7 short of nine years since my first involvement in this matter.

### 8 **WORK PERFORMED**

9 7. Since January 27, 2016, Class Counsel have performed work on a  
10 variety of tasks. The time was predominantly incurred in preparation of the reply  
11 paperwork in support of the initial fee motion, and preparing for and attending  
12 the hearing on that motion. The opposition brief totaled approximately 45 pages  
13 combined. Given the importance of the motion and the extensive nature of the  
14 defense arguments, Class Counsel prepared a 31-page reply brief, and further  
15 supporting declarations. There were also a couple of ex parte applications made  
16 in conjunction with the briefing and hearing dates, as well as one hearing on  
17 February 24, 2016.

18 8. We also prepared a motion for an order setting the parameters on  
19 terminating our role as Class Counsel, a motion for clarification of the fee motion  
20 ruling including a declaration and reply papers, an opposition to the Ritter  
21 motion to vacate the judgment, as well as attending several hearings on these  
22 matters and preparing subsequent orders for the Court. We also prepared, per  
23 order of the Court, a judicial council Memorandum of Costs, which summarized  
24 the costs detailed in the initial fee motion. The fee bills also include time related  
25 to the preparation of this supplemental fee motion.

26 9. The full nature of that work in detail can be ascertained from the  
27 legal bills I attach hereto as **Exhibit 2** (minimally redacted to protect privilege),  
28 as well as the legal bills from Mr. O’Leary (Exhibit 1 to O’Leary Declaration).

1 **TOTAL HOURS**

2 10. From January 27, 2016 to date, I have worked 207.8 hours, with an  
3 additional 34.9 paralegal hours incurred in my office, under my supervision. Mr.  
4 O’Leary has worked at additional 45.3 hours. We also retained attorney Richard  
5 M. Pearl to assist with certain aspects of the initial fee motion, and he worked  
6 9.15 hours at a total cost of \$7,091.25. A true and correct copy of Mr. Pearl’s  
7 invoice is attached as **Exhibit 3**. I reasonably anticipate that we will spend  
8 another 15 hours opposing the motion to tax costs, preparing reply papers on this  
9 motion, and attending the hearing. I will supply more exact numbers in reply  
10 and at the time of the hearing. I have split this 15 hours evenly below between  
11 myself and Mr. O’Leary.

12 11. Based on the foregoing, we request approval of a total of 269.7 hours  
13 of attorney time, including the time incurred by Mr. Pearl (whose experience and  
14 qualifications are summarized in his January 27, 2016 declaration [Dkt. No. ],  
15 and 34.9 hours of paralegal time. The fee request is summarized as follows:

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<b>TIMEKEEPER</b>	<b>TOTAL HOURS</b>	<b>HOURLY RATE</b>	<b>TOTAL</b>
Michael D. McLachlan	207.8	\$720	\$155,016
Daniel M. O’Leary	52.8	\$720	\$38,016
Richard M. Pearl	9.15	\$775	\$7,091.25
Paralegals	34.9	\$125	\$4,362.5
<b>TOTAL</b>			<b>\$204,485.75</b>

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25 **LITIGATION COSTS ADVANCED**

26 11. On March 11, 2016, I filed a supplemental declaration addressing  
27 costs incurred as of that date. Since that date, my firm has incurred \$1,558.70 in  
28 costs. A detail of these costs, excluding interest, is attached as **Exhibit 4**. Mr.

1 O'Leary has incurred costs of \$279.67, as noted in paragraph 4 of his declaration.  
2 The costs for which we seek reimbursement **total \$ 1,838.37.**

3 12. I have reviewed my cost summary and all of the costs are typical and  
4 necessary cost items I charge during litigation, they were incurred in this  
5 litigation, and all are covered in my retainer agreement with Richard Wood.

#### 6 **FEE BILLS: TIMEKEEPING**

7 13. As with the earlier fee bills, these bills for both Mr. O'Leary and  
8 myself do not include significant hours of secretarial and law clerk time. While  
9 many class attorneys bill for this time, even though the law allows for it, it has  
10 been my practice not to do so in state court cases. Nor do these bills include all of  
11 the attorney time. It is most often the case that Mr. O'Leary and I do not both bill  
12 for our communications, and my time always omits administrative time with  
13 staff, some telephone calls, review of filings in this case, and substantial e-mail  
14 correspondence, among others. The same is true of Mr. O'Leary's bills. The  
15 method of time-keeping for the attached bills is as describe in my January 27,  
16 2016 declaration (§§ 37-41).

#### 17 **HOURLY RATE**

18 14. We request the rate of \$720 hour for the time in question for myself  
19 and Mr. O'Leary, and \$775 an hour for Mr. Pearl. The rate of \$720 per hour for  
20 attorneys with our background and experience is clearly low in the current  
21 market.

22 15. As I noted in paragraph 42 of my January 27, 2016 declaration, I was  
23 approved at a rate of \$690 per hour in early 2015 in an overtime class action  
24 matter, *Anderson v. County of Ventura*, C.D. Cal. No. CV 13-03517 SJO (VBKx).

25 16. We are requesting \$720 per hour, which is about a 4% upward  
26 adjustment in the year that has passed since *Anderson*. I believe the evidence  
27 and authority cited by Richard Pearl in his declaration is supportive of this hourly  
28 rate. I am generally aware of the rates the Plaintiff's attorneys in Los Angeles of

1 my caliber and experience are charging and are being awarded, and \$720 per  
2 hour is reasonable, and more likely a good bit below, current market rates. The  
3 same is true of the paralegal rate of \$125 per hour, which is actually a good bit  
4 low compared to many firms.

5 17. There is substantial additional evidence of current fee rates included  
6 in the Pearl Declaration, and my prior declarations this year in support of the  
7 initial fee motion (CITE), all of which is incorporated here in support of this  
8 Motion. The following are additional materials regarding attorney fee rates that  
9 were not included my earlier declaration or that of Richard M. Pearl, dated  
10 January 27, 2016:

11 a. In June of 2015, a small firm received approval in the Central  
12 District of California for partners in excess of \$1,000 per hour, and for junior  
13 partners and other counsel as follows: Sountas-Argiropoulos (admitted 2008;  
14 \$675); Sekhon (admitted 2006; \$675; Keating (admitted 2008; \$650).<sup>1</sup> (Exhibit  
15 5, at Ex. 2, p.1.) Attached as **Exhibits 5** a true and correct copy of the first  
16 application for attorney fees in *In re State Fish Co*, along with Exhibits 1 and 2 to  
17 that application. Attached as **Exhibits 6** a true and correct copy of the court's  
18 order granting that application.

19 b. In 2014, a Los Angeles small firm attorney who was admitted  
20 in 1993, was awarded \$850 per hour on a statutory fee motion in the Los Angeles  
21 Superior Court. I attach as **Exhibit 7** a true and correct copy of the Order in  
22 *Kuwahara v. Gakuen et al.*, LASC Case No. 454896.

23 c. The higher end of the market in Los Angeles is well over  
24 \$1,000 per hour for litigators at or above 20 years of experience, and in excess of  
25 \$750 per hour for associates. I attach as **Exhibit 8** a true and correct copy of a

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27 <sup>1</sup> The admission years cited here are either noted in Exhibit 5 to my  
28 declaration, at Exhibit 1 to the fee application in question, or in one case, I  
accessed the information through the State Bar of California website.

1 summary of the rates being changed by Gibson, Dunn & Crutcher in Los Angeles.  
2 I attach as **Exhibit 9** a true and correct copy of a summary of 2016 hourly rates  
3 charged by Los Angeles Attorneys at Milbank, Tweed, Hadley & McCloy.

4 d. In *Civil Rights Education and Enforcement Center v. Ashford*  
5 *Hospitality Trust, Inc.* , 2016 U.S. Dist. LEXIS 37256 (N.D. Cal. March 22, 2016),  
6 an action challenging defendants' hotels' failure to provide wheelchair accessible  
7 transportation, in which the Court found the following 2015 hourly rates  
8 reasonable:

<u>Years of Experience</u>	<u>Rates</u>
41	\$900
24	750
10	550
8	500
5	430
Paralegal	250

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17 18. The rate of \$500 (applied by the Court in its April 25, 2016 order) is  
18 below market rates for essentially all of the time incurred on this matter, and  
19 certainly should not be used for time in 2016. Going back to the period of 2005  
20 to 2008 – at a time when I had many fewer years' experience -- \$500 per hour  
21 was a reasonable lower-range rate for work on a fairly basic consumer class case.  
22 In *Kaplan v. Citibank, N.A.* (LASC Case No. BC / Amer. Arb. Assoc. Case No. 11  
23 128 1007 07), I litigated this small consumer class case in state court (all merits  
24 issues litigated through Final Award at AAA), in which substantially all of my  
25 compensated time was incurred in 2005 through 2007. After prevailing, my time  
26 was approved by the arbitrator, and then subsequently by the Court, at a rate of  
27 \$500 per hour.  
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