

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

**ANTELOPE VALLEY GROUNDWATER
CASES**

Judicial Council Coordination
Proceeding No. 4408

Included Consolidated Actions:

Lead Case No. BC 325 201

Los Angeles County Waterworks District No.
40 v. Diamond Farming Co.
Superior Court of California
County of Los Angeles, Case No. BC 325 201

**DECLARATION IN RESPONSE TO
MOTION PURSUANT TO CCP 170.
1 AND 170.3**

Los Angeles County Waterworks District No.
40 v. Diamond Farming Co.
Superior Court of California, County of Kern,
Case No. S-1500-CV-254-348

Judge: Honorable Jack Komar, Ret.

Wm. Bolthouse Farms, Inc. v. City of Lancaster
Diamond Farming Co. v. City of Lancaster
Diamond Farming Co. v. Palmdale Water Dist.
Superior Court of California, County of
Riverside, consolidated actions, Case Nos.
RIC 353 840, RIC 344 436, RIC 344 668

Rebecca Lee Willis v. Los Angeles County
Waterworks District No. 40
Superior Court of California, County of Los
Angeles, Case No. BC 364 553

Richard A. Wood v. Los Angeles County
Waterworks District No. 40
Superior Court of California, County of Los
Angeles, Case No. BC 391 869

1 **This Document Pertains to Add-One Case:**

2 Little Rock Sand and Gravel, Inc., a California
3 corporation v. Granite Construction Company
4 Superior Court of California
County of Los Angeles, Case No. MC026932
5

6 I, Jack Komar, declare:

7 This declaration is in response to a motion for disqualification under Code of Civil
8 Procedure section 170.3 filed by plaintiff Richard Wood and the Class, and counsel, Michael
9 McLachlan (collectively Wood class), in a case that is part of a coordinated proceeding known as
10 the Antelope Valley Groundwater Cases (Antelope Groundwater Cases).
11

12 The motion has become moot because I have asked the Chief Justice to reassign the
13 Wood class case to avoid placing time and administrative burdens on all the other parties to the
14 Antelope Groundwater Cases action. However, I file this declaration to correct several material
15 inaccurate statements made in Mr. McLachlan's moving papers. I describe those inaccuracies
16 after briefly stating the nature of this case.
17

18 In 2005, as an active Superior Court Judge since 1985, sitting in Santa Clara County, I
19 was assigned to sit as coordination trial judge in the Antelope Groundwater Cases, a complex
20 multiparty litigation involving water right allocations designated as JCCP 4408. I retired from
21 active service on October 31, 2009, and was then requested to continue as the assigned judge in
22 this case and currently retain that assignment as an assigned judge in the Los Angeles County
23 Superior Court. Following additional phases of trial, a judgment was signed in 2015 and entered
24 at the end of December 2015. The judgment was affirmed on appeal in several published and
25 unpublished decisions (see *Antelope Valley Groundwater Cases* (2021) 62 Cal.App.5th 992); the
26 appellants' review petitions were denied by the California Supreme Court.
27
28

1 The judgment adopted and created a physical solution to the overdraft conditions in the
2 jurisdictional boundaries established in the case and provided water right allocations to many of
3 the parties and established processes for those without preexisting water rights. As the judgment
4 created a Watermaster with oversight responsibilities supervised by the court, the court retained
5 equitable jurisdiction to enforce its terms in equity as required. Since the entry of judgment, I
6 have heard posttrial motions and other requests for relief pursuant to the judgment terms.
7

8 In 2016, I awarded \$2.5 million in attorney fees to the plaintiff Wood class as against
9 defendant Los Angeles County Waterworks District No. 40 and other defendants. (Waterworks
10 is the sole remaining opponent to the Wood class case after settlements with other remaining
11 defendants). Defendant Waterworks was represented by Best Best & Krieger, LLP. The Wood
12 Class appealed. After the matter was pending on appeal for several years, in August 2021, the
13 Fifth District Court of Appeal affirmed in part and reversed in part, and remanded the matter for
14 further proceedings. A remittitur has not yet been received by me.
15
16

17 The Wood class now requests that I recuse myself from the matter on remand, claiming
18 that I have “taken paid mediation work in other matters from counsel and parties to this action,
19 including County of Los Angeles and its counsel Best Best & Krieger.” As explained, this claim
20 is not accurate because to my knowledge (1) I have never served as a mediator or as a neutral or
21 worked in any other capacity for or with any party to the Antelope Groundwater Cases, including
22 the County of Los Angeles; and (2) I have now timely made all disclosures to the Wood class,
23 including regarding mediation services provided where Best Best & Krieger represented
24 unrelated parties. With respect to the latter, Best Best & Krieger appeared before me only in
25 2019, 2020, and 2021, while the Wood class matter was on appeal and long after my order
26 awarding attorney fees to the Wood class.
27
28

1 A more detailed explanation is below.

2 Since my retirement from the court as an active judge, I have offered and provided
3 services upon request as an independent arbitrator/mediator through Judicial Arbitration and
4 Management Services (JAMS) located in San Jose, California. I am not an owner or shareholder
5 of JAMS and have no direct relationship with the organization other than as an independent
6 contractor. I do not engage in any other business activities. The only cases I accept are cases
7 where the parties request my assistance as a neutral through JAMS. I do not negotiate fees or
8 collect fees but leave it exclusively to JAMS to provide my remuneration for such services. Nor
9 do I solicit cases. My sole professional activity is as a neutral in either mediations, arbitrations,
10 or occasionally on a CCP 638/639 judicial reference or as stipulated judge pro tempore. I do not
11 provide consulting services for anybody; nor do I act as a representative or advocate for any
12 party.
13

14
15 I do not keep records of my JAMS cases. However, in response to the Wood class's
16 assertions, I asked JAMS to identify any case in which I served as a neutral for any party to the
17 Antelope Groundwater Cases and/or for any counsel of record in the Antelope Groundwater
18 cases. JAMS's response is attached as Exhibit A. Exhibit A is posted on the Webmaster
19 website.
20
21

22 As reflected on Exhibit A, to my knowledge **I have never participated as a mediator**
23 **for any party to the Antelope Groundwater Cases, including the County of Los Angeles.**
24 The Wood class's claims to the contrary are based on an inadvertent statement in a prior
25 correspondence, where I had intended to identify the City of Los Angeles, and not the County of
26 Los Angeles. I promptly notified Mr. McLachlan of that clerical error, but for reasons not
27 apparent, he continues to ground his allegations on a prior mistaken statement.
28

1 As also reflected on Exhibit A, in some of the cases in which I have served as a mediator,
2 certain counsel for parties in the Antelope Groundwater Cases appeared, but they represented
3 parties who were not involved in the Antelope Groundwater Cases. However, those appearances
4 were exclusively in 2019, 2020, and 2021, while the Wood class matter was on appeal and
5 several years after I had ruled on the Wood Class's attorney fees motion in question. The
6 remanded Wood case is not yet before me as the remittitur has not yet issued.
7

8 I note further that the postjudgment hearings on the Antelope Groundwater Cases involve
9 matters that are mainly unopposed motions for clarification of the judgment. Many, if not most,
10 are unopposed requests for various orders under the "physical solution" created in the judgment.
11 An example was an uncontested motion by the Watermaster to modify or amend the
12 Watermaster rules which was heard on September 20, 2021 by Court Call, for which I will
13 receive no compensation.
14

15 The bulk of the appeals from the judgment on the substantive issues in the Antelope
16 Groundwater Cases have been affirmed on appeal and the Supreme Court has declined review.
17 The case in which Mr. McLachlan has an interest was severed for hearing on appeal and, as I am
18 informed, relates solely to his attorney fees and costs. I have not yet read the decision but am
19 informed that the Fifth District Court of Appeal reversed in part and affirmed in part and
20 remanded for further hearing on certain specified issues.
21

22 I have no bias against Mr. McLachlan or his client, respect his ability as a lawyer, and do
23 not have a predisposition as to what should occur on remand. Mr. McLachlan is an able lawyer
24 who has ably represented his client, the entire class, and has contributed to the resolution of a
25 very complicated case that has greatly benefitted the residents in the valley.
26
27
28

1 As the Assigned Judge, I have continued to hear postjudgment matters in the Antelope
2 Groundwater Cases without significant compensation for several years as I have seen it as a duty
3 to complete and render proper decisions which arise after more than 15 years of a complex
4 adjudication in what was a very important and complex solution to a most difficult dispute
5 affecting thousands of parties, including the state and federal governments. I devoted many
6 years to this matter as the trial judge, both active and retired. The Judicial Council does not
7 compensate assigned judges for work performed outside the courtroom, including legal research
8 and writing and telephonic hearings. Since 2016, almost all hearings have been by telephone for
9 which I have not been compensated which in effect is a donation of my time- which I am happy
10 to contribute.
11

12
13 Moving those hearings to another judge, who basically will have to start over, will
14 impose burdens on both the court and the parties which have prompted me to retain the
15 assignment after retirement. The case has always had a priority over any other duties I have as a
16 retired judge or neutral in an arbitration or mediation.
17

18 In a prior letter, Mr. McLachlan suggested that I have a business relationship with certain
19 of the law firms and lawyers in the Antelope Groundwater Cases. That suggestion is absolutely
20 mistaken, false, and untrue. In particular, it should be clear that I do not have a relationship with
21 either Los Angeles County or its lawyers, or any parties or lawyers in the Antelope case, or
22 otherwise, or in any other case or situation. Contrary to statements made by Mr. McLachlan in
23 various ex parte letters sent to me, I do not act as a consultant for lawyers, law firms, or
24 individuals or corporations of any kind, law related or otherwise. My sole professional activities
25 outside of the Antelope Case are as a "judicial neutral" as described above.
26
27
28


1 In my work as a neutral affiliated with JAMS, if lawyers pay JAMS for my services, I am
2 not aware of who pays what and I have no interest, as a neutral, whether in mediations or
3 arbitrations, in knowing who is paying fees that might be paid to me. No such knowledge could
4 ever influence me in any event to favor one side or the other or affect any decision I make as a
5 judicial officer, active or retired- not now, or in the past, or ever. As a retired judge I do not
6 solicit or seek out work as a neutral.
7

8 I am familiar with the canons of judicial ethics and have never been accused of violating
9 them or any other rules or canons as a judge or as a lawyer in the more than 55 years since being
10 admitted to the bar. The intimation that I might somehow be in violation of the canons is both a
11 surprise, very personally wounding, and based on inaccurate and mistaken beliefs.
12

13 Notwithstanding the misstatements and factually inaccurate statements made in support
14 of the motion to disqualify me, I will request the Chief Justice to reassign the remanded Wood v.
15 County of Los Angeles case to another judge. Mr. McLachlan's motion indicates the only
16 adverse party in the Wood matter in which he seeks my disqualification is Los Angeles County
17 Waterworks District No. 40 involving McLachlan's attorney's fees and costs, and since the
18 appellate court severed that matter from the other appeals in the Antelope Groundwater Case, I
19 will request the Chief Justice to reassign that case alone to another judge for hearing on the
20 remittitur, thereby making moot the motion by Mr. McLachlan.
21
22

23 I certify under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct.
25

26 Dated: October 4, 2021



Hon. Jack Komar (Ret.)
Judge of the Superior Court

EXHIBIT A

SERVICE LIST

Case Name: Steinbeck Vineyards # 1, LLC, et al. vs. County of San Luis Obispo, et al.

Hear Type:

Mediation

Reference #: 1110026664

Case Type:

Business/Commercial

Panelist: Komar, Jack,

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SERVICE LIST

Case Name: City of Los Angeles, et al. vs. Board of Supervisors of the County of Inyo

Hear Type:

Arbitration

Reference #: 1220043690

Case Type:

Business/Commercial

Panelist: Komar, Jack ,

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SERVICE LIST

Case Name: Santa Barbara Channelkeeper vs. State Water Resources Control Board, et al **Hear Type:** Mediation
Reference #: 1110023845 **Case Type:** Environmental
Panelist: Komar, Jack ,

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Ventura River Water District

SERVICE LIST

Case Name:	<u>Las Posas Valley Water Rights Coalition, et al. vs. Fox Canyon Groundwater</u>	Hear Type:	Mediation
Reference #:	1110024055	Case Type:	Energy
Panelist:	Komar, Jack ,		

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Rolling Green Hills Ranch, LLC
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