

**Superior Court of California
County of Santa Clara**

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Chambers of
HON. JACK KOMAR, Judge (Retired)



October 4, 2021

Hon. Tani G. Cantil-Sakauye
Chief Justice
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4797

Re: Response to Complaint Received February 4, 2019-Case No. 16-CV303699

Dear Chief Justice Cantil-Sakauye:

I write this to you with regard to my assignment as Coordination Trial Judge in the Antelope Valley Groundwater Coordinated Cases (JCCP 4408) (Antelope Groundwater Cases). Michael McLachlan, a lawyer representing a party in the coordinated action, has filed a motion in the Los Angeles County Superior Court to disqualify me from hearing his case on remand. Mr. McLachlan has copied you on several of his letters related to this subject.

In 2005, as an active Santa Clara County Superior Court Judge, I was assigned to be the coordination trial judge in the Antelope Groundwater Cases which was venued in Los Angeles.

After hearing several phases of the trial, I retired as a Santa Clara County Superior Court Judge on October 31, 2009 after 24 plus years of service and was requested to continue to sit as the trial judge in the Antelope Cases by assignment. I agreed to do so although I intended to and did engage in private work as a neutral with Judicial Arbitration and Management Services (JAMS).

In the Antelope Groundwater Cases in the superior court, I heard 6 phases of trial over a ten-year period which culminated in a signed judgement which incorporated a settlement between over 90% of the parties in December 2015. Appeals were filed in 2016. The original judgment has now been affirmed on appeal (see *Antelope Valley Groundwater Cases* (2021) 62 Cal.App.5th 992) and the California Supreme Court has denied review. Still on appeal are a few posttrial orders.

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Since entry of judgment, there have been multiple postjudgment motions that I have heard while the matter was on appeal in the 5th District Court of Appeal. It is the only case in which I sit by assignment.

After the judgment, I also have presided over unrelated JAMS mediations, using the JAMS forum to facilitate requests for such services.

The 5th DCA recently remanded a posttrial order for attorneys fees and costs for further hearing in the *Richard Wood v. Los Angeles County Waterworks District 40*, one of the Antelope Cases. (F083138.) The *Wood* court in an unpublished appellate decision partially affirmed and partially reversed the orders and remanded for further hearing. The *Wood* matter was severed from the coordinated case appeals for purposes of the appeal. Michael McLachlan, the lawyer seeking attorneys' fees in the Wood case has now filed a motion to disqualify me on his case pursuant to CCP sections 170.1 and 170.3 on the grounds that a reasonable person would doubt my ability to be fair in view of my having performed unrelated JAMS mediation services for parties whose attorneys are his adversary in the Antelope Groundwater Cases, in which he is seeking attorneys fees against the County of Los Angeles.

Initially, Mr. McLachlan made a number of false claims which were outlined in his earlier letters copied to you, including that I worked for the County of Los Angeles, that I mediated cases involving the County of Los Angeles, that I had a business relationship with the firm representing the County of Los Angeles, and the like, including that I received compensation from the County of Los Angeles for mediating a case. The actual case I mediated was a number of years ago that involved the *City of Los Angeles v. Inyo County*, mistakenly referred to at one point as the *County of Los Angeles v. Inyo County*. None of those allegations are true, as I have set forth in a sworn declaration attached hereto.

Mr. McLachlan now argues that I should have disclosed such mediation work at the time I was so engaged. However, at the time of the mediations, the Wood case was on appeal and until the appeal was decided, the Wood case was not before me. I learned of the remand only when Mr. McLachlan notified me and requested that I recuse myself. Full disclosure has now been made, although JAMS had to spend the time searching its records since I do not retain such records myself.

Nevertheless, I think under the circumstances that it is appropriate to request that I be permitted to withdraw from *Richard Wood v. Los Angeles County Waterworks District*

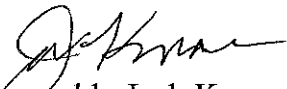
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No. 40, Appellate Case Number F083138, which was severed from the other Antelope Groundwater Cases, and that it be reassigned to a new judge to hear the matter on remand. I do not wish to engage in the time consuming and evidentiary issues relating to a disqualification hearing notwithstanding that the motion is ill brought. I will be pleased to retain the assignment as to the other posttrial motions if the court wishes.

In the last several years, such posttrial motions have been mostly unopposed and have been related to administrative matters, often initiated by the judgment-created Watermaster. These motions have been heard telephonically. Because these hearings do not involve court time, I do not receive compensation for preparation or research and review for such hearings, but have gladly done so to benefit the court and the parties.

I am pleased to have been able to serve the court and the parties in largely resolving in equity the severe overdraft situation in the Antelope Valley and will be pleased to continue to oversee in equity other post judgment matters as they arise.

Very truly yours,


Honorable Jack Komar (Retired)