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WATERWORKS DISTRICT NO. 40

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – CENTRAL DISTRICT

**ANTELOPE VALLEY GROUNDWATER
CASES**

Included Actions:

Los Angeles County Waterworks District No.
40 v. Diamond Farming Co., Superior Court of
California, County of Los Angeles, Case No.
BC 325201;

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;

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, Case Nos. RIC 353 840,
RIC 344 436, RIC 344 668

RICHARD WOOD, on behalf of himself and
all other similarly situated v. A.V. Materials,
Inc., et al., Superior Court of California,
County of Los Angeles, Case No. BC509546

**EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103**

Judicial Council Coordination Proceeding
No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar

**LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40'S
OPPOSITION TO THE WILLIS
CLASS' RE-NOTICED MOTION TO
ADD ARCHDIOCESE AS LEAD
PLAINTIFF**

Date: March 26, 2015

Time: 10:00 a.m.

Dept.: Superior Court of California
111 North Hill Street, Rm. 222
Los Angeles, CA 90012

Los Angeles County Waterworks District No. 40 ("District No. 40") hereby responds to the Willis Class' Re-noticed Motion to Add Archdiocese as Lead Plaintiff ("Motion") as follows:

I. INTRODUCTION

This Motion is the Willis Class' third attempt to add the Archdiocese as a lead plaintiff for the Willis Class. The Motion incorporates by reference prior filings submitted by the Willis Class on this matter, but does not address what circumstances have changed since the January 22, 2015 hearing on this exact matter to support this re-noticed motion. Both the Small Pumper Class and District No. 40 have expressed concerns that the Archdiocese has a conflict of interest with the members of the Willis Class. (See Exhibit "1" [Small Pumper Class' 1/8/2015 Opposition to Renewed Motion to Add Lead Plaintiff].) Yet, the Motion fails to address any new development that would alleviate such concerns. Moreover, the Motion remains procedurally deficient as the Willis Class has not presented admissible evidence that it satisfied the Court's November 4, 2014 order.

II. THE ARCHDIOCESE CANNOT SERVE AS A CLASS REPRESENTATIVE BECAUSE OF A CONFLICT OF INTEREST

Proposed class representatives must not have a conflict of interest with members of the class. (*La Sala v. American Sav. & Loan Assn.* (1971) 5 Cal.3d 864, 872-874.) The party seeking class certification has the burden of proving that its named representative does not have a conflict of interest. (*Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470-471.) Moreover, a trial court is to deny class certification if the proposed class representative is simply lending its name to a lawsuit that is controlled entirely by the attorney for the proposed class. (*Howard Guntz Profit Sharing Plan v. Superior Court* (2001) 88 Cal.App.4th 572, 577-580.) As shown below, the proposed additional class representative Archdiocese owns properties within the Adjudication Area that are within Public Water Supplier service areas, and those properties receive public water supply service.

A. The Archdiocese Owns Schools And Parishes That Depend Upon Groundwater Provided By Public Water Suppliers.

The Archdiocese owns the following schools and parishes within the Adjudication Area:

1. Sacred Heart Catholic Church, 625 West Kettering Street, Lancaster, CA 93534
2. Blessed Junipero Serra Catholic Church, 42121 North 60th Street West, Lancaster, CA 93536
3. St. Mary Catholic Church, 1600 East Avenue R4, Palmdale, CA 93550
4. Sacred Heart Elementary School, 45002 North Date Avenue, Lancaster, CA 93534
5. Mission Bell Preschool, 42121 North 60th Street West, Lancaster, CA 93536
6. Paraclete High School, 42145 North 30th Street, Lancaster, CA 93536
7. St. Mary Elementary, 1600 East Avenue R4, Palmdale, CA 93550

(Exhibit "2" [Declaration of Wendy Wang ("12/8/2014 Wang Decl."), which was previously filed on December 8, 2014], at Exs. "D" and "E", ¶¶ 5-7.)

District No. 40 is informed and believes that each of the above Archdiocese properties receives water from a Public Water Supplier. Thus, the Archdiocese properties depend upon the Public Water Suppliers' water supply and the Archdiocese cannot represent a class or dormant landowner parties who are adverse to the Public Water Suppliers.

B. The Archdiocese has Church Members Whom Depend Upon Groundwater Provided By Public Water Suppliers.

The Archdiocese has church members who reside in the Antelope Valley. They, in all likelihood, own or rent homes that depend upon the Public Water Suppliers to provide a public water supply. If the Archdiocese were to become a class representative, it would be adverse to the Public Water Suppliers who provide public water service to Archdiocese members.

III. THE WILLIS CLASS HAS BEEN REPRESENTED BY AN INDIVIDUAL CLASS MEMBER AND THE MOTION MAKES NO SHOWING THAT MR. ESTRADA CANNOT BE AN ADEQUATE CLASS MEMBER WITHOUT THE ARCHDIOCESE

Ms. Rebecca Willis was a single class representative for the Willis Class. At no time throughout the adjudication proceedings did Ms. Willis or the Willis Class counsel claim any

1 other class representative was needed. Even now, the Willis Class makes no showing that the
2 Archdiocese is needed as a class representative or that Mr. Estrada cannot adequately represent
3 the Class.

4 **IV. THE WILLIS CLASS HAS NOT COMPLIED WITH THE COURT'S**
5 **NOVEMBER 4, 2014 INSTRUCTIONS**

6 During the November 4, 2014 hearing on the first Willis Class' motion to add the
7 Archdiocese as a class representative, counsel for District No. 40 indicated that Mr. Allan J.
8 Graf—counsel for the Archdiocese—had appeared in this coordinated proceeding on behalf of the
9 Archdiocese. (See Exhibit “2” [12/8/2014 Wang Decl.] at Exs. “A” & “B” [Transcript of Hearing
10 on August 20, 2007].) In denying the Willis Class's request to add the Archdiocese as an
11 additional class plaintiff, the Court stated that there are a number of procedural tasks that the
12 Willis Class should accomplish before the court consider a motion to add the Archdiocese as an
13 additional class representative:

- 14 1. Opting in properties that are currently owned by the Archdiocese in the Antelope
15 Valley;
- 16 2. A declaration that the Leslie Property was sold;
- 17 3. Alerting the new owner(s) of Leslie Property of the status of its property; and
- 18 4. Dismissing the Answer. (Exhibit “2” [12/8/2014 Wang Decl.], at Ex. “F”).

19 While some of the Court's requests appear to have been satisfied, the Willis Class has not
20 submitted admissible evidence that it contacted the new owner of the Leslie property, nor has it
21 identified the new owner. Rather, the Willis Class submitted the Declaration of Michael T.
22 Davitt, dated December 15, 2014, which contains hearsay evidence that the Archdiocese's
23 counsel, Mr. Allan J. Graf, contacted the new owner of the Leslie Property. (Exhibit “3”
24 [Declaration of Mr. Davitt], ¶¶2-3.) Since Mr. Graf allegedly contacted the new owner, Mr.
25 Davitt has no personal knowledge of Mr. Graf's communications with the new owner and do not
26 know whether such communications have, in fact, occurred. The Court should require the Willis
27 Class to submit admissible evidence that Mr. Graf did performed the acts that Mr. Davitt claimed
28 was done.

1 Until the Willis Class complies with all of the Court's requests, this Motion is premature
2 and should be denied.

3 **V. CONCLUSION**

4 For the above reasons, the Court should deny the Willis Class' Motion to add the
5 Archdiocese as an additional class representative.

6
7 Dated: March 13, 2015

BEST BEST & KRIEGER LLP

8
9 By 

ERIC L. GARNER
JEFFREY V. DUNN
WENDY Y. WANG

Attorneys for
LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40

PROOF OF SERVICE

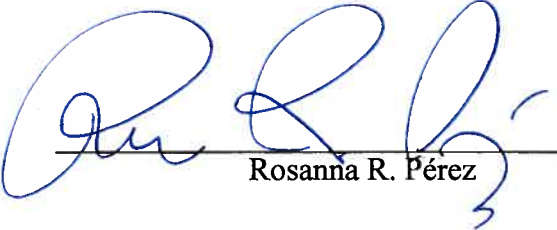
I, Rosanna R. Pérez, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 300 South Grand Avenue, 25th Floor, Los Angeles, CA 90071. On, I served the within document(s):

**LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40'S OPPOSITION
TO THE WILLIS CLASS' RE-NOTICED MOTION TO ADD ARCHDIOCESE AS
LEAD PLAINTIFF**

☒ by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 13, 2015, at Los Angeles, California.


Rosanna R. Pérez

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