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

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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

Judicial Council Coordination
Proceeding
No. 4408

CLASS ACTION

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

**PUBLIC WATER SUPPLIERS’
OBJECTIONS TO THE WILLIS
CLASS’ SECOND MOTION TO
ENFORCE SETTLEMENT AND
TO EXHIBITS D AND E**

*[Filed Concurrently with Declaration
of Wendy Y. Wang]*

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Los Angeles County Waterworks District No. 40, City of Palmdale, City of Lancaster, Rosamond Community Services District, Littlerock Creek Irrigation District, Palm Ranch Irrigation District, Desert Lake Community Services District, North Edwards Water District, Llano Del Rio Water Company, Llano Mutual Water Company, Big Rock Mutual Water Company, Palmdale Water District, Quartz Hill Water District, and California Water Service Company (collectively, “Public Water Suppliers”) object to the Willis Class’ Second Motion to Enforce Settlement (“Motion”) and accompanying Exhibits D [Expert Report of Rodney T. Smith, Ph.D.] and E [Expert Report of Brian E. Gray] on the following ground:

The Motion inappropriately references and relies upon expert opinions on questions of law. (*See* Motion at 2:24-28, 3:9-13, 3:21-4:3, 7:25-8:6, 8:23-9:2, 9:13-22, 9:27-28, 10:18-11:6, 11:15-12:28 & 13:10-17; Exs. D & E.) California courts have long recognized that expert opinions are not admissible for the consideration of legal matters. (*Summers v. A. L. Gilbert Co.* (1999) 69 Cal. App. 4th 1155, 1178 [“There are limits to expert testimony, not the least of which is the prohibition against admission of an expert’s opinion on a question of law.”]; *Ferreira v. Workmen’s Comp. Appeals Bd.* (1974) 38 Cal.App.3d 120, 126.) The court in *Downer v. Bramet* (1984) 152 Cal. App. 3d 837 held that:

[While Evidence Code Section 805 permits expert testimony on ultimate issues of fact, it] does not, however, authorize an “expert” to testify to legal conclusions in the guise of expert opinion. Such legal conclusions do not constitute substantial evidence. The manner in which the law should apply to particular facts is a legal question and is not subject to expert opinion.

While in many cases expert opinions that are genuinely needed may happen to embrace the ultimate issue of fact (e.g., a medical opinion whether a physician’s actions constitute professional negligence), **the calling of lawyers as “expert witnesses” to give opinions as to the application of the law to particular facts usurps the duty of the trial court** to instruct the jury on the law as applicable to the facts, and results in no more than a modern day “trial by oath” in which the side producing the greater number of lawyers able to opine in their favor wins.

(*Id.* at 841-42 [citations and quotation marks omitted] [emphasis added].) Moreover, expert opinions on interpretation of written instruments are not admissible. (*Summers*, 69 Cal. App. 4th

1 at 1180 [citing *Cooper Companies v. Transcontinental Ins. Co.* (1995) 31 Cal. App. 4th 1094,
2 1100].) The *Cooper Companies* court held:

3
4 The interpretation of an insurance contract, as with that of any
5 written instrument, is primarily a judicial function. Unless the
6 interpretation of the instrument turns upon the credibility of
7 conflicting extrinsic evidence, a reviewing court makes an
8 independent determination of the policy's meaning.

9 (*Cooper Companies*, 31 Cal. App. 4th at 1100.)

10 The question before the Court is whether the Willis Class Stipulation of Settlement
11 ("Stipulation") is consistent with the [Proposed] Judgment and Physical Solution ("Physical
12 Solution"). In short, the Motion calls upon the Court to interpret whether two written instruments
13 are consistent. As the Court ordered during the July 10, 2015 Case Management Conference,
14 only the Willis Class' legal contentions will be considered for this Motion. The Court's minute
15 order provides, "the court will not take evidence at this time other than the documents making up
16 the settlements and judgments." (Declaration of Wendy Y. Wang, Ex. "A" [Minute Order from
17 July 10, 2015] at p. 2.)

18 Despite the Court's order limiting the issues and evidence to be considered during the
19 August 4, 2015 hearing and cases prohibiting the use of expert opinions on questions of law, the
20 Motion relies heavily upon inadmissible opinions of Dr. Smith and Mr. Gray on the ultimate legal
21 issue before the Court. Dr. Smith's report consists of his interpretation of the Stipulation and the
22 Physical Solution and his legal opinion as to why these two documents are inconsistent. (Motion,
23 Ex. D.) In addition to providing similar interpretations and opinions, Mr. Gray also proffered his
24 interpretation of California case law, treatises and papers on water law. (Motion, Ex. E.) Such
25 "opinions" do not constitute admissible evidence and encroaches upon the Court's authority as
26 the ultimate interpreter of written instruments and law. (*Summers*, 69 Cal. App. 4th at 1178;
27 *Downer*, 152 Cal. App. 3d at 841-42; *Cooper Companies*, 31 Cal. App. 4th at 1100.)

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1 For the foregoing reasons, this Court cannot and should not consider the reports by Dr.
2 Smith and Mr. Gray nor any arguments contained in the Motion which reference or are dependent
3 thereon.

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5 Dated: July 24, 2015

BEST BEST & KRIEGER LLP

6
7 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 S. Grand Avenue, 25th Floor, Los Angeles, California 90071. On July 24, 2015, I served the within document(s):

**PUBLIC WATER SUPPLIERS' OBJECTIONS TO THE WILLIS CLASS'
SECOND MOTION TO ENFORCE SETTLEMENT AND EXHIBITS D AND E**



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 July 24, 2015, at Los Angeles, California.



Rosanna R. Pérez