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DISTRICT NO. 40

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

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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

Judicial Council Coordination Proceeding  
No. 4408

CLASS ACTION

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

**NOTICE AND EX PARTE  
APPLICATION FOR ORDER  
PERMITTING MEMORANDA IN  
EXCESS OF 15 PAGES**

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

DATE: March 21, 2016  
TIME: 1:30 p.m.  
DEPT.: D1 (Santa Clara) via CourtCall

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that Los Angeles County Waterworks District No. 40 (“District  
3 No. 40”), City of Palmdale (“Palmdale”), Quartz Hill Water District, Littlerock Creek Irrigation  
4 District, Palm Ranch Irrigation District, Desert Lake Community Services District, and North  
5 Edwards Water District will appear *ex parte* on March 21, 2016 at 1:30 p.m. via Court Call in the  
6 above referenced court at 191 North First Street San Jose, CA 95113 for an order permitting: (1)  
7 Wood Class’ Motion for Attorney Fees, Costs and Incentive Award (“motion”) to incorporate  
8 legal arguments and citations contained in its concurrently filed declarations; and (2) District No.  
9 40 and Palmdale’s joint opposition to the motion to be 30 pages.

10 Before 10 a.m. the day before the *ex parte* appearance, counsel for District No. 40, on  
11 behalf of all the above applicants, gave notice of the *ex parte*, time, date, location, and relief  
12 sought to all counsel in this case by posting this *ex parte* notice to the Court’s website at  
13 www.scefiling.org for the Antelope Valley Groundwater Cases, which the parties have agreed  
14 constitutes service to them.

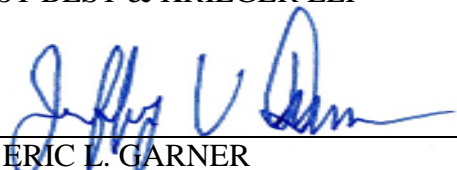
15 Pursuant to California Rules of Court, rule 3.1204, subdivision (a), any party wishing to  
16 oppose the application should contact Wendy Y. Wang via email at wendy.wang@bbklaw.com or  
17 phone via (213) 787-2554.

18 This *ex parte* application is made pursuant to Rules of Court, rules 3.1200 et seq., and  
19 Code of Civil Procedure section 128. The application is based on this notice, the attached  
20 memorandum of points and authorities and Declaration of Jeffrey V. Dunn and exhibits thereto,  
21 the [Proposed] Order, the pleadings and papers on file herein, and on such further arguments and  
22 material as the Court may consider at the hearing on this matter.

1 Dated: March 18, 2016

BEST BEST & KRIEGER LLP

2  
3 By:

  
ERIC L. GARNER  
JEFFREY V. DUNN  
WENDY Y. WANG  
Attorneys for Defendant  
LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40

## MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to California Rules of Court, rules 3.1200 et seq., and Code of Civil Procedure section 128, Los Angeles County Waterworks District No. 40 (“District No. 40”), City of Palmdale (“Palmdale”), Quartz Hill Water District, Littlerock Creek Irrigation District, Palm Ranch Irrigation District, Desert Lake Community Services District, and North Edwards Water District hereby make this *ex parte* application for an order permitting: (1) the Wood Class’ Motion for Attorney Fees, Costs and Incentive Award (“motion”) to incorporate the legal arguments and citations contained in its concurrently filed declarations; and (2) District No. 40 and Palmdale’s joint opposition to the motion to be 30 pages.

### **I. FACTUAL BACKGROUND**

On or about January 27, 2016, counsel for the Wood Class filed the motion against District No. 40, Palmdale, and six other public water suppliers. The motion requests \$3,348,160 plus a 2.5 multiplier in fees, a \$25,000 monetary incentive payment, and costs of \$75,242.06. In support of the motion, the Wood Class filed voluminous declarations of Michael D. McLachlan, Daniel M. O’Leary, Richard M. Pearl, Richard A. Wood, and David B. Zlotnick with exhibits. Amongst other exhibits attached to Mr. McLachlan’s declaration are 230 pages of invoices for work allegedly performed by Mr. McLachlan’s office from August, 2007 to January, 2016. (Declaration of Jeffrey V. Dunn (“Dunn Decl.”) at ¶4.)

The motion raises complex factual and legal matters. (*Id.* at ¶5.) In preparing their oppositions, District No. 40 and Palmdale coordinated with the six other public water suppliers to avoid duplication of similar legal arguments. (*Id.* at ¶6.) In lieu of filing two separate oppositions to the Wood Class motion, District No. 40 and Palmdale filed a joint opposition on March 15, 2016 (“Opposition”), the memorandum of which totals 30 pages. (*Id.*)

District No. 40 and Palmdale joined the opposition filed by the small public water suppliers. (Opposition at fn. 2.) The small public water suppliers and California Water Service Company also filed joinders to District No. 40 and Palmdale’s Opposition.

On March 16, 2016, counsel for the Wood Class, Mr. Michael D. McLachlan, informed counsel for District No. 40 that he believes the joint Opposition violates the 15-page limitation on

1 memoranda and that Palmdale lacks standing to oppose the Wood Class motion. (Dunn Decl. at  
2 ¶7.) District No. 40 and Palmdale are seeking the Court’s resolution of this dispute prior to the  
3 deadline to file reply briefs and hearing on the motion.

4 **II. ARGUMENT**

5 **A. The Motion Opposition Parties Coordinated Their Joint Opposition**

6 The Wood Class motion seeks fees against eight “Settling Defendants”, including District  
7 No. 40 and Palmdale. (Motion at p. 3.) In lieu of filing eight separate and potentially  
8 overlapping oppositions, totaling 120 pages, the responding parties agreed to coordinate their  
9 efforts and drafted two oppositions—one by the small public water suppliers and one by District  
10 No. 40 and Palmdale. (*Id.* at ¶6.) The joint Opposition filed by District No. 40 and Palmdale  
11 totals 30 pages. (*Id.*) District No. 40 and Palmdale could have filed 2 separate oppositions—each  
12 consisting of 15 pages for a total of 30 pages—but decided for the ease of readability and  
13 efficiency to file a single document. District No. 40 and Palmdale should not be punished for  
14 their collaborative effort to minimize duplicative arguments. Nor should the other public water  
15 suppliers who joined in the Opposition be similarly punished.

16 Wood Class’ contention that Palmdale lacks standing to oppose the motion is meritless.  
17 First, the motion specifically includes Palmdale in its definition of “Settling Defendants”.  
18 (Motion at p. 3.) Second, Palmdale has a vital interest in whether or not other public water  
19 suppliers are required to pay for fees, costs, and incentive awards. As discussed in further detail  
20 in the Opposition, Palmdale does not produce water for retail sale, and its retail water is served by  
21 other entities, including District No. 40 and Palmdale Water District (“PWD”). In short, its  
22 taxpayers who receive water service must pay fees to District No. 40 and PWD. Should Palmdale  
23 also have to pay Wood Class’ fees and costs, this would result in double-penalty against its  
24 residents.

25 **B. Facts And Circumstances Surrounding The Motion Require Exceedance Of**  
26 **Page Limit**

27 Justice requires District No. 40 and Palmdale to submit a longer memorandum. As the  
28 Court is aware, the Antelope Valley Groundwater Adjudication proceeding began in 2004. The

1 Wood Class counsel allegedly began work in August 2007. (*Id.* at ¶4.) The motion seeks over \$8  
2 million in fees and costs for work allegedly performed by the class counsel from then until  
3 January 2016. (*Id.*)

4 The amount of requested fees by itself requires an in-depth analysis of the merit of the  
5 request.<sup>1</sup> Further, the motion raises many complex issues as the Wood Class seeks fees to which  
6 it is not entitled. (See generally Opposition.) For example, as discussed in further detail in the  
7 Opposition, the class seeks to recover fees for matters in which the class' interests are completely  
8 aligned with District No. 40, Palmdale, and other public water suppliers. Moreover, the length of  
9 the adjudication proceeding requires extensive analysis of the factual background and application  
10 of the law to those facts.

11 Consequently, due to the amount of the fees requested, the complexity of the issues  
12 involved, and the length of this action, the 15-page limitation for a memorandum of points and  
13 authorities is unreasonably restrictive and does not permit the parties a sufficient opportunity to  
14 address the matters raised in the motion and accompanying declarations. If District No. 40 and  
15 Palmdale are not permitted to file a joint Opposition that exceeds the 15-page limitation, this will  
16 have the practical effect of denying an adequate opportunity to respond to the motion and  
17 prejudicing all parties opposing the motion—not just District No. 40 and Palmdale. (*Id.* at ¶¶5 &  
18 8.)

19 **C. Wood Class Motion Exceeds The 15-Page Limitation**

20 The complexity of the issues involved in this matter is exemplified by the Wood Class'  
21 own exceedance of the page limitation. While the Wood Class' memorandum is *technically* 15  
22 pages, the class was not able to incorporate all of its legal arguments into the motion and choose  
23 to set forth its arguments in the accompanying declaration and incorporate them by reference.  
24 For example, instead of setting forth arguments and citing supporting legal authorities in support  
25 of an incentive payment for Richard Wood, the motion references a trial court order attached to  
26

27 \_\_\_\_\_  
28 <sup>1</sup> The Opposition points to many examples of inflated billing. However, given the page limitations and vagueness of  
the invoices, District No. 40 and Palmdale have not and could not identify all inflated billings in their Opposition.

1 Mr. McLachlan's declaration and the "cases cited therein for award of \$25,000 incentive award".  
2 (Motion at p. 17.)

3 By this application, the applicants are requesting that the Court excuse District No. 40,  
4 Palmdale, and Wood Class' exceedance of the 15-page limitation, to the extent the Court finds  
5 such exceedances exist.

6 **III. CONCLUSION**

7 For the foregoing reasons, District No. 40, Palmdale, Quartz Hill Water District,  
8 Littlerock Creek Irrigation District, Palm Ranch Irrigation District, Desert Lake Community  
9 Services District, and North Edwards Water District respectfully request the Court to permit: (1)  
10 Wood Class' motion to incorporate legal arguments and citations contained in its concurrently  
11 filed declarations; and (2) District No. 40 and Palmdale's joint opposition to the motion to be 30  
12 pages.

13  
14 Dated: March 16, 2016

BEST BEST & KRIEGER LLP

15  
16 By: 

17 ERIC L. GARNER  
18 JEFFREY V. DUNN  
19 WENDY Y. WANG  
20 Attorneys for Defendant  
21 LOS ANGELES COUNTY  
22 WATERWORKS DISTRICT NO. 40  
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**PROOF OF SERVICE**

I, Rosanna R. Pérez, declare:

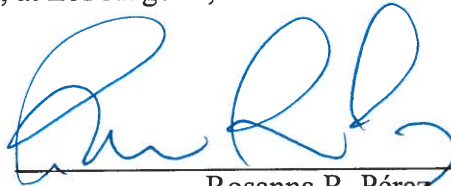
I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 300 S. Grand Avenue, 25th Floor, Los Angeles, California 90071. On March 18, 2016, I served the following document(s):

**NOTICE AND *EX PARTE* APPLICATION FOR ORDER PERMITTING  
MEMORANDA IN EXCESS OF 15 PAGES**



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 18, 2016, at Los Angeles, California.



Rosanna R. Pérez

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