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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

EVIDENTIARY OBJECTIONS TO: (1) SUPPLEMENTAL DECLARATION OF DANIEL M. O'LEARY; (2) SECOND SUPPLEMENTAL DECLARATION OF MICHAEL D. MCLACHLAN; AND (3) PORTIONS OF WOOD CLASS REPLY BRIEF

Date: April 1, 2016
Time: 1:30 p.m.
Dept.: 1

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Los Angeles County Waterworks District No. 40, Palm Ranch Irrigation District, Desert Lake Community Services District, North Edwards Water District, Quartz Hill Water District, and California Water Service Company hereby submit their Objections to: (1) Supplemental Declaration of Daniel M. O'Leary in Support of Motion for Award of Attorneys' Fees, Costs and Incentive Award; (2) Second Supplemental Declaration of Michael D. McLachlan; and (3) portions of Wood Class Reply Brief that cite to and rely on inadmissible evidence.

EVIDENCE OBJECTED TO	**GROUNDS FOR OBJECTION**	**COURT'S RULING [sustained ("S") or overruled ("O")]**
1. Supplemental Declaration of Daniel M. O'Leary in Support of Motion for Award of Attorneys' Fees, Costs and Incentive Award served on March 29, 2016 ("Suppl. O'Leary Decl.").	Untimely and improper new evidence submitted after deadline to file reply brief. Evidence is introduced to support arguments raised for the first time. (*See Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1538.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.)	
2. Paragraph 3 to Suppl. O'Leary Decl.: "In 2012, after the phase 3 trial in this matter, the Daily Journal (Los Angeles) voted the Antelope Valley Groundwater Litigation as the Top Verdict of 2011 based on its impact. Attached as Exhibit 21 is a true and correct copy of this article, in which Mr. Dunn is quoted speaking about the fact that this case 'affects the public in a great way . . .'"	Untimely and improper new evidence submitted after deadline to file reply brief. Evidence is introduced to support arguments raised for the first time. (*See Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1538.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.)	

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EVIDENCE OBJECTED TO	GROUNDS FOR OBJECTION	COURT'S RULING [sustained ("S") or overruled ("O")]
3. Paragraph 4 to Suppl. O'Leary Decl.: "On December 25, 2015, the Antelope Valley Press, which states that it is the largest newspaper circulated in the valley, ran a story about this case as its front page headline. The article entitled 'Merry Christmas, water drinkers,' had a photo of the Judge signing the Judgment with this byline: 'Judge signs agreement after 16-year court battle.' Attached as Exhibit 22 is a true and correct copy of this article."	Untimely and improper new evidence submitted after deadline to file reply brief. Evidence is introduced to support arguments raised for the first time. (*See Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1538.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.)	
4. Paragraph 5 to Suppl. O'Leary Decl.: "On December 31, 2015, the Antelope Valley Press ran the story: 'Groundwater deal AV Story of the Year.' Attached as Exhibit 23 is a true and correct copy of this article."	Untimely and improper new evidence submitted after deadline to file reply brief. Evidence is introduced to support arguments raised for the first time. (*See Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1538.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.)	
5. Paragraph 6 to Suppl. O'Leary Decl.: "On January 22, 2016, the Daily Journal ran another story on this case, describing its 'particularly complex' nature. It quoted W. Keith Lemieux stating that '[if the final] trial phase had gone forward . . . it probably would couldn't have been litigated in anyone's lifetime.' Counsel for District 40, Eric Garner, noted	Untimely and improper new evidence submitted after deadline to file reply brief. Evidence is introduced to support arguments raised for the first time. (*See Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1538.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.)	

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EVIDENCE OBJECTED TO	GROUNDS FOR OBJECTION	COURT'S RULING [sustained ("S") or overruled ("O")]
that he has 'been working on this case almost one-third of [his] life.' Attached as **Exhibit 24** is a true and correct copy of this article."		
6. Exhibit 21 to Suppl. O'Leary Decl.: Daily Journal Article	Untimely and improper new evidence submitted after deadline to file reply brief. Evidence is introduced to support arguments raised for the first time. (*See Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1538.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.)	
7. Exhibit 22 to Suppl. O'Leary Decl.: Antelope Valley Press Article	Untimely and improper new evidence submitted after deadline to file reply brief. Evidence is introduced to support arguments raised for the first time. (*See Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1538.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.)	
8. Exhibit 23 to Suppl. O'Leary Decl.: Antelope Valley Press Article	Untimely and improper new evidence submitted after deadline to file reply brief. Evidence is introduced to support arguments raised for the first time. (*See Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1538.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.)	

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EVIDENCE OBJECTED TO	GROUNDS FOR OBJECTION	COURT'S RULING [sustained ("S") or overruled ("O")]
9. Exhibit 24 to Suppl. O'Leary Decl.: Daily Journal Article	Untimely and improper new evidence submitted after deadline to file reply brief. Evidence is introduced to support arguments raised for the first time. (*See Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1538.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.)	
10. Second Supplemental Declaration of Michael D. McLachlan ("2nd Suppl. McLachlan Decl.")	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra,* at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh*	

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EVIDENCE OBJECTED TO	GROUNDS FOR OBJECTION	COURT'S RULING [sustained ("S") or overruled ("O")]
	(1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.) The declaration contains legal argument.	
11. Paragraph 3 to the 2nd Suppl. McLachlan Decl.: "Attached as Exhibit 13 is a true and correct copy of the relevant pages of the hearing transcript of March 12, 2007."	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.)	

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EVIDENCE OBJECTED TO	GROUNDS FOR OBJECTION	COURT'S RULING [sustained ("S") or overruled ("O")]
12. Paragraph 4 to the 2nd Suppl. McLachlan Decl.: "Attached as Exhibit 14 is a true and correct copy of the relevant pages of the hearing transcript of April 16, 2007."	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.)	
13. Paragraph 5 to the 2nd Suppl. McLachlan Decl.: "Attached as Exhibit 15 is a true and correct copy of the relevant pages of the hearing transcript of August 11, 2008."	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by	

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	the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.)	
14. Paragraph 6 to the 2nd Suppl. McLachlan Decl.: "The PWS and the Court fully acknowledged that the case could be at issue and be litigated with the Class mechanism. (Ex. 13, 12:16-23.)"	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362,	

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EVIDENCE OBJECTED TO	GROUNDS FOR OBJECTION	COURT'S RULING [sustained ("S") or overruled ("O")]
	fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.) The paragraph contains improper legal argument.	
15. Paragraph 7 to the 2nd Suppl. McLachlan Decl.: "Attached as Exhibit 16 is a true and correct copy of the relevant pages of the hearing transcript of May 21, 2007 (see 28:17-28), wherein the Court stated: THE COURT: NONE OF THIS, MR. WEINSTOCK, WE CAN DO IN ANY BINDING WAY UNTIL WE HAVE EVERYBODY A PARTY AND SERVED, EITHER AS A CLASS MEMBER OR AS A DEFENDANT CLASS OR OTHERWISE. AND SO FAR, IT HAS BEEN LIKE PULLING TEETH TO GET THAT TO OCCUR. AND	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be	

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EVIDENCE OBJECTED TO	GROUNDS FOR OBJECTION	COURT'S RULING [sustained ("S") or overruled ("O")]
I'VE BEEN TALKING ABOUT THAT NOW FOR A LONG TIME. AND ONCE THAT IS ACCOMPLISHED I WILL BE VERY HAPPY TO START HEARING EVIDENCE CONCERNING ALL OF THE ISSUES THAT YOU JUST DESCRIBED. BUT UNTIL THAT HAS HAPPENED, IT WOULD BE AN EXERCISE IN FUTILITY AND REDUNDANCY FOR THE COURT TO START HEARING THAT KIND OF EVIDENCE. (*Id.* at 41:3-12.)"	stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.)	
16. Paragraph 8 to the 2nd Suppl. McLachlan Decl.: "I have practiced law for over 20 years, nearly all of which has been spent as a Plaintiff's attorney. I therefore have considerable experience in having service of summons effectuated, and the costs of doing same. Personal service in a remote area like the Antelope Valley, or out of state, where a large portion of the Willis and Small Pumper Class members live, would cost in the range of $100 - $300, or more, on average."	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments	

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	raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Lack of foundation. (Evid. Code §§ 400-401 & 403.) Lack of personal knowledge. (Evid. Code § 702.) Improper opinion. (Evid. Code §§ 800-801.)	
17. Paragraph 9 to the 2nd Suppl. McLachlan Decl.: "After the failed settlement hearing on June 16, 2011, at the Court's encouragement, I met with Jeff Dunn, Warren Wellen and Richard Wood in the courthouse cafeteria, where we all agreed to revise the settlement agreement in accord with the Court's reservations, and resubmit it. I revised the agreement accordingly and circulated it on June 20, 2011. On July 14, 2011, Warren Wellen advised me in writing that the settlement did not have to go back to District 40's board for re-approval."	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See*	

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EVIDENCE OBJECTED TO	GROUNDS FOR OBJECTION	COURT'S RULING [sustained ("S") or overruled ("O")]
	Jay, *supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.) Inadmissible settlement communications (Evid. Code §§1152 & 1154.) This paragraph discusses communications exchanged during settlement negotiations and/or mediation. Under Evidence Code Sections 1152 and 1154, such communications are inadmissible for the purpose for which the Wood Class is attempting to use it (*i.e.* to show liability for an 8 million dollar fee request and to show (a) the Wood Class is the prevailing party, the validity of its claims, and that others should have settled and (b) to argue the PWS parties are not prevailing parties . . .etc.).	
18. Paragraph 10 to the 2nd Suppl. McLachlan Decl.: "Thereafter, by August 4, 2011, counsel for District 40 went silent again, and refused to proceed with the settlement. During this time, several other PWS continued to express a preference for settling with the Class, including Thomas Bunn and Doug Evertz. Attached as Exhibit 17, collectively, are true and correct copies of relevant emails from 2011 discussed above."	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v.*	

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EVIDENCE OBJECTED TO	GROUNDS FOR OBJECTION	COURT'S RULING [sustained ("S") or overruled ("O")]
	Alza Corp. (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.) Inadmissible settlement communications (Evid. Code §§1152 & 1154.) This paragraph discusses communications exchanged during settlement negotiations and/or mediation. Under Evidence Code Sections 1152 and 1154, such communications are inadmissible for the purpose for which the Wood Class is attempting to use it (*i.e.* to show liability for an 8 million dollar fee request and to show (a) the Wood Class is the prevailing party, the validity of its claims, and that others should have settled and (b) to argue the PWS parties are not prevailing parties . . .etc.).	
19. Paragraph 11 to the 2nd Suppl. McLachlan Decl.: "In the Spring of 2013, I had a discussion with Jeff in Court about a settlement, using a class complaint against the landowners as leverage to	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but	

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force them to not oppose it. If they did, we would go through with the PWS settlement and litigate against the landowners. Dunn blessed this idea. The AV Materials case was filed on May 23, 2013. That day I emailed all PWS to advise of the settlement plans. That same day, Eric Garner emailed regarding his interest. He On June 18, 2013, Warren Wellen called to inform me that D40 was reneging on its agreement to settle after the filing of AV Materials."	only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.) Inadmissible settlement communications (Evid. Code §§1152 & 1154.) This paragraph discusses communications exchanged during settlement negotiations and/or mediation. Under Evidence Code Sections 1152 and 1154, such communications are inadmissible for the purpose for which the Wood Class is attempting to use it (*i.e.* to show liability for an 8 million dollar fee request and to show (a) the Wood Class is the prevailing party, the validity of its claims, and that others should have settled and (b) to argue the PWS parties are not prevailing parties . .	

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EVIDENCE OBJECTED TO	GROUNDS FOR OBJECTION	COURT'S RULING [sustained ("S") or overruled ("O")]
	.etc.).	
20. Paragraph 12 to the 2nd Suppl. McLachlan Decl.: "On June 26, I wrote to all other PWS counsel on settlement, with a discussion of legal fees. On July 3, 2013, I emailed all PWS counsel again with a revised draft agreement. By August 15, the following counsel had agreed that their clients would settle: Brad Weeks; Doug Evertz; Tom Bunn; and Wes Miliband. An e-mail of that same day, contained discussion of fee exposure. On August 19, John Tootle called to tell me that Cal Water was also going to join the settlement."	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.) Inadmissible settlement communications (Evid. Code §§1152 & 1154.) This paragraph discusses communications exchanged during settlement negotiations and/or mediation. Under Evidence Code	

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	Sections 1152 and 1154, such communications are inadmissible for the purpose for which the Wood Class is attempting to use it (*i.e*. to show liability for an 8 million dollar fee request and to show (a) the Wood Class is the prevailing party, the validity of its claims, and that others should have settled and (b) to argue the PWS parties are not prevailing parties . . .etc.).	
21. Paragraph 13 to the 2nd Suppl. McLachlan Decl.: "On October 17, Quartz Hill took the matter to their Board for approval (I was aware of this by direct communications from Bradley Weeks), after the preliminary approval motion was filed, and voted to pull out of the settlement. In a telephone call the next day, Mr. Weeks told me his client pulled out due to "intense" pressure from District 40. On October 23, 2013, after the motion for preliminary approval had been filed, Cal Water also pulled out via a formal notice filed with the Court."	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay*, *supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.)	

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	Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.) Inadmissible settlement communications (Evid. Code §§1152 & 1154.) This paragraph discusses communications exchanged during settlement negotiations and/or mediation. Under Evidence Code Sections 1152 and 1154, such communications are inadmissible for the purpose for which the Wood Class is attempting to use it (*i.e.* to show liability for an 8 million dollar fee request and to show (a) the Wood Class is the prevailing party, the validity of its claims, and that others should have settled and (b) to argue the PWS parties are not prevailing parties . . .etc.).	
22. Paragraph 14 to the 2nd Suppl. McLachlan Decl.: "Attached as Exhibit 18, collectively, are true and correct copies of relevant emails from 2013 discussed above."	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be	

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	stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.) Inadmissible settlement communications (Evid. Code §§1152 & 1154.) This paragraph discusses communications exchanged during settlement negotiations and/or mediation. Under Evidence Code Sections 1152 and 1154, such communications are inadmissible for the purpose for which the Wood Class is attempting to use it (*i.e*. to show liability for an 8 million dollar fee request and to show (a) the Wood Class is the prevailing party, the validity of its claims, and that others should have settled and (b) to argue the PWS parties are not prevailing parties . . .etc.).	
23. Paragraph 15 to the 2nd Suppl. McLachlan Decl.: "It is well known that District 40 spent many year trying to stop settlement efforts, including the foregoing and the long-running principles mediation process under James Waldo (in which I participated directly). In November of 2013, the growing frustration with District 40's efforts to stop	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their	

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settlement led a handful of parties – the United States, Palmdale Water District, AVEK, and a few other parties, including myself as Class counsel – to commence settlement discussions in a small, private group. District 40 and the other public water suppliers were expressly excluded, and not advised. These settlement meetings went on for many months, and ultimately produced the agreement that ultimately, after further improvement, became the Judgment and Physical Solution."	reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.) Lack of foundation. (Evid. Code §§ 400-401 & 403.) Lack of personal knowledge. (Evid. Code § 702.) Improper opinion. (Evid. Code § 800.) Inadmissible settlement communications (Evid. Code §§1152 & 1154.) This paragraph discusses communications exchanged during settlement negotiations and/or mediation. Under Evidence Code Sections 1152 and 1154, such communications are inadmissible for the purpose for which the Wood Class is attempting to use it (*i.e.* to show liability for an 8 million dollar fee request and to show (a) the Wood Class is the prevailing party, the validity of its claims, and that others should have settled and (b) to argue the	

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	PWS parties are not prevailing parties . . .etc.).	
24. Paragraph 16 to the 2nd Suppl. McLachlan Decl.: "My extensive experience with groundwater-related litigation spans over 20 years. It was very useful when interfacing with experts in this case, and enabled me to handle those issues without access to a hydrogeologist or hydrologist expert of my own."	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.)	
25. Paragraph 17 to the 2nd Suppl. McLachlan Decl.: "The Court should recall that the Scalmanini deposition was taken over many days in order to preserve his testimony for the Phase III trial due to his	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but	

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health problems. In fact, the deposition occurred during a break in the trial. It appeared that there would have been no opportunity to wait for the transcripts and review them before the trial recommenced. So both myself and Mr. O'Leary attended portions of this deposition. But only I flew to Northern California to conduct the Class' cross-examination of Mr. Scalaminini."	only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) The paragraph contains legal argument.	
26. Paragraph 18 to the 2nd Suppl. McLachlan Decl.: "Attached as Exhibit 19 is a true and correct copy of the Stipulation for Entry of Judgment and Physical Solution, omitting the voluminous signature pages beyond that of District 40."	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is	

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	entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.)	
27. Exhibit 13 to the 2nd Suppl. McLachlan Decl.	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken.	

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	Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.)	
28. Exhibit 14 to the 2nd Suppl. McLachlan Decl.	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh*	

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	(1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.) The exhibit contains legal argument.	
29. Exhibit 15 to the 2nd Suppl. McLachlan Decl.	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.)	

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	The exhibit contains legal argument.	
30. Exhibit 16 to the 2nd Suppl. McLachlan Decl.	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.) The exhibit contains legal argument.	
31. Exhibit 17 to the 2nd Suppl. McLachlan Decl.	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most	

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	"exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay*, *supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) Inadmissible hearsay (Evid. Code §1200.) Inadmissible settlement communications (Evid. Code §§1152 & 1154.) This exhibit contains communications exchanged during settlement negotiations and/or mediation. Under Evidence Code Sections 1152 and 1154, such communications are inadmissible for the purpose for which the Wood Class is attempting to use it (*i.e.* to show liability for an 8 million dollar fee request and to show (a) the Wood Class is the prevailing party, the validity of its claims, and that others	

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	should have settled and (b) to argue the PWS parties are not prevailing parties . . .etc.).	
32. Exhibit 18 to the 2nd Suppl. McLachlan Decl.	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken. Evidence is introduced to support arguments raised for the first time in the reply. (*See Jay, supra*, at p. 218 Cal.App.4th at p. 1538 ["[p]oints raised for the first time in a reply brief will ordinarily not be considered"] quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) Irrelevant (Evid. Code §§ 210 & 350-351.) For example, page 8 of Exhibit 18 is an email dated August 15, 2013 and is introduced to refute District No. 40's claim that Mr. McLachlan was simultaneously negotiating legal fees and settlement as of June 26, 2013. (*See* District No. 40	

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	Opposition at 11:22-26; Reply at 19:11-14.) Inadmissible hearsay (Evid. Code §1200.) Inadmissible settlement communications (Evid. Code §§1152 & 1154.) This exhibit contains communications exchanged during settlement negotiations and/or mediation. Under Evidence Code Sections 1152 and 1154, such communications are inadmissible for the purpose for which the Wood Class is attempting to use it (*i.e.* to show liability for an 8 million dollar fee request and to show (a) the Wood Class is the prevailing party, the validity of its claims, and that others should have settled and (b) to argue the PWS parties are not prevailing parties . . .etc.).	
33. Exhibit 19 to the 2nd Suppl. McLachlan Decl.	Untimely and improper new evidence submitted with reply. New evidence may not accompany a reply except in the most "exceptional case." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 [reply declarations "should not have addressed the substantive issues in the first instance but only filled gaps in the evidence created by the . . . opposition"].) The Wood Class has not made any showing whatsoever that there is an exceptional circumstance warranting their introduction of new evidence with their reply. In the rare case where new evidence accompanies a reply, the opposing party is entitled to notice and an opportunity to respond to the new material. (*See Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8; *Weiss v. Chevron, U.S.A., Inc.* (1988) 204 Cal.App.3d 1094, 1099.) Here the PWS parties have been given no opportunity to respond to the new evidence, and it must be stricken.	

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Dated: March 31, 2016

BEST BEST & KRIEGER LLP

By: _____
ERIC L. GARNER
JEFFREY V. DUNN
WENDY Y. WANG
Attorneys for Defendant
LOS ANGELES COUNTY
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 31, 2016, I served the following document(s):

EVIDENTIARY OBJECTIONS TO: (1) SUPPLEMENTAL DECLARATION OF DANIEL M. O'LEARY; (2) SECOND SUPPLEMENTAL DECLARATION OF MICHAEL D. MCLACHLAN; AND (3) PORTIONS OF WOOD CLASS REPLY BRIEF

☒ 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 31, 2016, at Los Angeles, California.

Rosanna R. Pérez

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