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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

14 ANTELOPE VALLEY
15 GROUNDWATER CASES

16 Included Actions:

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

21 Los Angeles County Waterworks District
22 No. 40 v. Diamond Farming Co., Superior
23 Court of California, County of Kern, Case
24 No. S-1500-CV-254348

25 Wm. Bolthouse Farms, Inc. v. City of
26 Lancaster, Diamond Farming Co. v. City of
27 Lancaster, Diamond Farming Co. v.
28 Palmdale Water District, Superior Court of
California, County of Riverside, Case Nos.
RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053

**REPLY IN SUPPORT OF MOTION TO SET
ASIDE JUDGMENT ENTERED AGAINST
MARK RITTER, SUCCESSOR TRUSTEE
OF THE RITTER FAMILY TRUST AND
MARK S. RITTER AND DANA E. RITTER**

Date: February 10, 2016

Time: 10:00 a.m.

**Location: Mosk Courthouse, 111 N. Hill
Street, Room 222, Los Angeles, California**

29 COMES NOW, Mark Ritter, as Successor Trustee of the Ritter Family Trust, and hereby
30 submits the following points and authorities in Reply to the Oppositions to the Motion to Set

31 Aside Judgment:

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1 I.

2 **THE HISTORY OF THE RITTER PARTIES' INVOLVEMENT IN THE CASE HAS NO**
3 **BEARING ON THE MOTION AND, FURTHER, RITTER SHOULD BE TREATED**
4 **CONSISTENTLY WITH ROBAR**

5 The Motion to Set Aside was made on the narrow basis that, between the time Ritter
6 obtained new counsel and the trial of this matter, the Court indicated that Ritter would trail along
7 with Robar. The history of Ritter's involvement in this case, though a favorite subject of
8 opposing counsel, is not at issue in the Motion itself. Rather, the sole question is whether Ritter
9 and Ritter's counsel's reliance on the Court's statement that Ritter would trail along with Robar
10 constitutes grounds for setting aside the Judgment and permitting the presentation of evidence.¹

11 The Court and all parties were well aware of the procedural history preceding September
12 of 2015 at the time the Court represented that Ritter would be trailed along with Robar. Indeed,
13 Robar has had a similar history, and yet was permitted to trail and present evidence at a future
14 time. Both Ritter and Robar became aware of this litigation during its pendency. (As to Robar's
15 prior awareness of this litigation, *see* Declaration of Michael T. Fife, Document No. 10386
16 [declaring that Robar's representative contacted Mr. Fife's office in April and May of 2009 to
17 discuss joining AGWA and being represented by Mr. Fife's firm in this adjudication, but making
18 the decision not to join AGWA and not communicating further with Mr. Fife since that time].)
19 Hence, Robar became aware of the adjudication over six years before they decided to become
20 actively involved shortly before the Phase VI Trial.

21 Recognizing the similarities of the positions and issues confronting both Ritter and Robar,
22 it is only logical that both or neither would have or should have been permitted to trail. However,
23 the Court ruled that both parties would be permitted to trail.

24 The Court's representation that is the subject of this Motion—i.e., that Ritter would trail
25 along with Robar—was made the same date as Robar's *ex parte* application to continue the Phase

26 _____
27 ¹ Further, despite Messrs. McLachlan's and Dunn's assertions to the contrary (which assertions do not accurately
28 represent the record in this case), Ritter did file pleadings with the court well before judgment was entered addressing
proof of water usage, requests to be allowed an opportunity to present evidence of water usage, and did oppose the
entry of judgment by the Wood class. See Docket #'s 10388, 10925, 10954, 10963 and 10981.

1 VI Trial. Indeed, both Ritter and Robar were in the same situation, having been unrepresented
2 but aware of the case for some years, and it was therefore entirely reasonable for Ritter to rely on
3 the Court's statement that Ritter would trail along with Robar.

4 **II.**

5 **RELIANCE ON THE COURT'S STATEMENT IS**
6 **GROUNDS TO SET ASIDE THE JUDGMENT**

7 As discussed in the Motion, at least two cases support the proposition that the Judgment in
8 this case should be set aside. In *Melde v. Reynolds* (1900) 129 Cal. 308, a party's attorney was
9 erroneously informed of the trial date by the court, and the party's default was taken as a result.
10 The California Supreme Court held that it was an abuse of discretion to refuse to set aside the
11 judgment, noting that the attorney "could not be charged with neglect in accepting [the court's]
12 statements as correct and acting accordingly." (*Id.* at 313 [emphasis added].)

13 Similarly, in *Lynch v. De Boom* (1915) 26 Cal.App. 311, the plaintiff was not present
14 when his case was called, having left the courtroom after being advised that the matter would be
15 continued. The case was dismissed. The Court of Appeal held that the trial court had abused its
16 discretion in refusing to set aside the dismissal, recognizing that the plaintiff's absence from trial
17 was in reliance on the representation by the clerk that the matter would be calendared for a later
18 date. (*Id.* at 314.)

19 Thus, as discussed in the Motion, the proposition that the Ritter Parties should not have
20 judgment entered against them for failure to present evidence, when such failure was the result of
21 reliance on a statement by the Court, finds support in Section 473 and its legislative purpose, the
22 case law, and reason.

23 **III.**

24 **ANY AND ALL JOINDERS IN THE OPPOSITION TO THE MOTION TO SET ASIDE**
25 **SHOULD BE DISREGARDED AS BEING UNTIMELY AND SHOULD BE STRICKEN**

26 Besides the fact that a joinder adds nothing to a pending motion beyond some purported
27 yet unsupported weight, Ritter notes the plethora of joinders in the opposition to this Motion.
28 None of the joinders (except the "Partial Joinder and Partial Response to Oppositions of LA

1 County Waterworks and the Wood Class to Motion to Set Aside Judgment” filed by Michael T.
2 Fife on February 2, 2016 as Document # 11169) add any legal arguments in support of the
3 Motion or the opposition.

4 In addition, except for two joinders filed by Bob Joyce, all other joinders in the opposition
5 were late filed and should not be considered as any type of support in the Court’s consideration of
6 whether to grant or deny this Motion. Opposition to this Motion was due to be served and filed
7 on or before February 1, 2016.

8 Therefore, to the extent that the court is considering the joinders to the opposition to the
9 Motion in ruling on this Motion, it is submitted that such would be improper.

10 Being that the joinders offer no arguments or any support to the opposition even as to the
11 timely file joinders, and since the vast bulk of the joinders were filed well after the deadline to file
12 opposition to the Motion, all such joinders should be stricken by the Court.

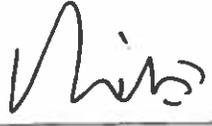
13 IV.

14 CONCLUSION

15 Based on the foregoing, and the grounds stated in the Motion, Ritter respectfully submits
16 that the Judgment should be set aside.

17 Dated: February 5, 2016

BRUMFIELD & HAGAN, LLP
A Limited Liability Partnership

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19 By: 
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22 of the Ritter Family Trust and Mark S. Ritter
23 and Dana E. Ritter
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