	ll .		
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8	SUPERIOR COURT OF THE STATE OF CALIFORNIA		
9	FOR THE COUNTY OF LOS ANGELES		
10	ANTELOPE VALLEY GROUNDWATER CASES	RELATED CASE TO JUDICIAL COUNCIL COORDINATION PROCEEDING NO. 4408	
11	This Planding Polaton to Included Action.		
12	This Pleading Relates to Included Action: REBECCA LEE WILLIS and DAVID	WILLIS CLASS' REPLY MOTION FOR	
13	ESTRADA, on behalf of themselves and all others similarly situated,	COURT ORDER FOR PAYMENT OF EXPERT WITNESS FEES FOR THE	
14	Plaintiffs,	WILLIS CLASS FOR PHYSICAL SOLUTION PROCEEDINGS	
15			
16	V.	Date: June 15, 2015 Time: 1:30 PM	
17	LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; CITY OF LANCASTER;	Place: Santa Clara County Superior Court, 191 N. 1 <sup>st</sup> St., San Jose, CA 95113, Dept. 1	
18	CITY OF PALMDALE; PALMDALE	Judge: Hon. Judge Komar	
19	WATER DISTRICT; LITTLEROCK CREEK IRRIGATION DISTRICT; PALM RANCH		
20	IRRIGATION DISTRICT; QUARTZ HILL WATER DISTRICT; ANTELOPE VALLEY		
21	WATER CO.; ROSAMOND COMMUNITY		
22	SERVICE DISTRICT; PHELAN PINON HILL COMMUNITY SERVICE DISTRICT;		
23	and DOES 1 through 1,000;		
24	Defendants.		
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	WILLIS CLASS' REPLY MOTION FOR COURT ORDER FOR PAYMENT OF EXPERT		

WITNESS FEES FOR THE WILLIS CLASS FOR PHYSICAL SOLUTION PROCEEDINGS

The Public Water Suppliers' Opposition fails to substantively refute the Willis Class' Motion for an Order for payment of expert witness costs that will be incurred by the Willis Class prior to and during the upcoming Physical Solution proceedings beginning August 3, 2015. Specifically, the PWS fail to substantively address the unique circumstances that Willis Class Counsel have been placed in by the Public Water Suppliers in (1) entering into a physical solution that is not consistent with the Willis Class Judgment, (2) submitting to the Court a Case Management Order which obligates the Willis Class to oppose a prove-up of a physical solution and prove a claim of right to produce groundwater in the future, and (3) failing to negotiate and cooperate with Willis Class counsel in order to arrive at a fair and equitable Physical Solution.

Given these circumstances, Willis Class Counsel has no choice but to retain experts in order to fulfill its obligations to the Class and enforce the Willis Class Judgment.

## **ARGUMENT**

The Public Water Suppliers and the Willis Class entered into a Stipulation of Settlement which released the Suppliers' claims of prescription and recognized the correlative rights of the Willis Class to share in 85% of the Federally Adjusted Native Safe Yield (the "Stipulation of Settlement"). The Court determined the Stipulation of Settlement was fair, adequate, and reasonable and entered judgment incorporating its terms. The Stipulation of Settlement provides that settling parties shall be part of a Physical Solution but only to the extent it is consistent with the terms contained in the settlement (See paragraph V.B. of the Stipulation of Settlement). On March 4, 2015, the Public Water Suppliers entered into and filed a proposed Physical Solution with the Court that is not consistent with the Stipulation of Settlement. Thus, even though Willis Class Counsel already litigated the underlying class action lawsuit to a successful resolution, Counsel is now forced to contest an entirely separate proceeding in which they have an ongoing duty to the Willis Class to ensure that the "significant benefits" achieved in the Amended Final

Judgment are incorporated into the Physical Solution ultimately adopted by this Court. Had the Public Water Suppliers not reneged on their agreement in the Stipulation of Settlement to support the Willis Class' correlative right to share in the Native Safe Yield up to 85% free of replacement assessment, then the Willis Class would not need expert witnesses to oppose the SPPS and to support its right to pump groundwater in the future as part of an amended SPPS or as part of an alternative proposed physical solution. Alternatively, the Wood Class required an expert to address the groundwater needs of the 3700-Member Wood Class in the context of the Physical Solution proceedings and therefore an expert was appointed by the Court. The Court thus far has denied the Willis Class' repeated requests for a Court-appointed expert.

In order to adequately represent the Willis Class in the upcoming Court-mandated Physical Solution proceedings, Willis Class Counsel must employ expert witnesses. Plain and simple. Every other party to this adjudication will employ expert witnesses to prove up or oppose the SPPS. This fact is not the least bit surprising given the highly complex technical and scientific issues involved in a Physical Solution proceeding. The 65,000-Member Willis Class cannot be treated as second class citizens. Because the Court did not appoint an expert and because there will likely be no common fund from which to reimburse Willis Class Counsel for fronting expert witness fees, the Court must issue an Order providing that the expert witness fees expended by the Willis Class must be paid. In so doing, the expert witness fees will become recoverable by Willis Class Counsel pursuant to C.C.P. Section 1033.5(a)(8). This motion is necessary as expert witness fees are not recoverable under CCP section 1021.5.

Willis Class Counsel recognizes that they should not be afforded "carte blanche" to expend expert witness fees under the Court's Order. Accordingly, Willis Class Counsel has attached as Exhibit A to the moving papers a very conservative budget for expert witness fee

1	expenditures for the upcoming Physical Solution proceeding. Willis Class Counsel is willing to		
2	"cap" these fees at the budgeted amount of \$140,000.		
3	3 Dated: June 8, 2015	Respectfully submitted,	
4	4	KRAUSE KALFAYAN BENINK &	
5	5	SLAVENS, LLP	
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7		- Add	
8		Ralph B. Kalfayan, Esq. Lynne M. Brennan, Esq.	
9		Class Counsel for the Willis Class	
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