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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ANTELOPE VALLEY
GROUNDWATER CASES

This Pleading Relates to Included Action:
REBECCA LEE WILLIS, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40; CITY OF LANCASTER;
CITY OF LOS ANGELES; CITY OF
PALMDALE; PALMDALE WATER
DISTRICT; LITTLEROCK CREEK
IRRIGATION DISTRICT; PALM RANCH
IRRIGATION DISTRICT; QUARTZ HILL
WATER DISTRICT; ANTELOPE VALLEY
WATER CO.; ROSAMOND COMMUNITY
SERVICE DISTRICT; MOJAVE PUBLIC
UTILITY DISTRICT; and DOES 1 through
1,000;

Defendants.

) RELATED CASE TO JUDICIAL
) COUNCIL COORDINATION
) PROCEEDING NO. 4408
)

) The Honorable Jack Komar
) Coordination Trial Judge
)

) **REBECCA WILLIS' AND THE**
) **CLASS'MEMORANDUM OF POINTS**
) **AND AUTHORITIES IN SUPPORT OF**
) **PLAINTIFF WOOD'S MOTION FOR**
) **ALLOCATION OF EXPERT WITNESS**
) **COSTS**

) DATE: June 12, 2009
) TIME: 9:00 a.m.
) PLACE: Dept. 17C
)

) JUDGE: Hon. Jack Komar
)
)

Class Plaintiff Richard Wood ("Wood") has moved to allocate the present costs of the
Court appointed expert, Entrix, to the Public Water Suppliers (the "Suppliers") he has sued.

1 Plaintiff Willis agrees that, at least at this stage of the litigation, the Supplier defendants in the
2 Wood action should bear the costs of Entrix's work. In no event should any such costs be
3 allocated to the Willis Class.

4 ARGUMENT

5 For several reasons, it is appropriate for the Court to allocate the costs of
6 Entrix's work to the Public Water Suppliers. The structure and merits of these
7 coordinated cases, the fact that the Suppliers benefit from Class Certification and
8 agreed to bear the costs of notice, and the equities all weigh in favor of imposing
9 this cost on the Suppliers, not the landowners.

10 First, the Suppliers are the only entities who are presently adverse to the
11 Wood Class. There is no basis in law or equity to assign these expert costs to
12 parties who are not adverse to Wood's claims. Sections 730 and 731 refer to the
13 Court's ability to appoint an expert in the context of "an action." This expert is
14 being appointed for purposes of the Wood action. The costs of this expert should be
15 allocated among the parties to that action.

16 Second, the need for Entrix's services, at least at present, relates to defining
17 and identifying the Wood Class in order to facilitate Class notice in the action
18 between Wood and the PWS. **Indeed, the need to compensate Entrix arises**
19 **directly from the Stipulation and Order re: Small Pumper Class Notice**
20 **Issues – a stipulation that was agreed to by and among Wood and the**
21 **Suppliers he has sued.** See Docket Entry No. 2646, attached hereto as Exhibit A.
22 The other parties to these proceedings were not consulted about and do not benefit
23 from that stipulation. We should not have to bear the costs incurred as a result of
24 this stipulation between Wood and the Suppliers. To the contrary, Wood and the
25 Suppliers unilaterally decided to have Entrix proceed with these efforts and they
26 should bear the resulting costs.

27 Third, the Suppliers willingly undertook the responsibility to bear the costs of
28 serving the Willis and Wood Class notices because certification of those classes

1 serves the Suppliers' interests in obtaining a comprehensive adjudication and in
2 prosecuting their prescription claims. As the very title of the Stipulation makes
3 clear, the work presently being done by Entrix is in direct furtherance of that
4 undertaking. The fact that there may have been unexpected difficulties in
5 identifying the members of the Wood Class is not a basis for the Suppliers to shirk
6 responsibility for this cost that they previously agreed to bear. In accord with their
7 prior representations, the Suppliers should bear the costs of the Wood notice,
8 including Entrix's services in identifying Class members.

9 Fourth, as noted above, certification of the Wood Class serves the interests
10 and desires of the Suppliers to achieve a comprehensive adjudication; moreover, it
11 does so at the least possible cost to the Suppliers, who otherwise would have had to
12 personally serve thousands of small pumpers. Many of the other landowner parties
13 opposed formation of the Wood Class. They should not be required to subsidize what
14 is, in reality, a mechanism that the Suppliers are using to save the costs and
15 expense of suing many additional parties.

16 Fifth, the equities support the allocation of these expert costs to the
17 Suppliers. The Suppliers are the ones who hope and expect to benefit from this
18 litigation by obtaining prescriptive rights to the Basin's groundwater at the expense
19 of the landowners. It is only fair to impose the costs of this expert on the parties
20 that seek to benefit from the appointment of these experts, not others who do not
21 benefit at all. Hopefully, at some future time, the litigation will focus on a physical
22 solution that benefits all of the parties to these coordinated proceedings. But that is
23 not what prompts the need for Entrix's services at this time. Those services are
24 solely needed to facilitate the Class Notice in the Wood case – a cost that the
25 Suppliers agreed to and should rightfully bear.

26 Finally, in no event should any such costs be assigned to the Willis Class,
27 which faces the very same economic issues that make it impractical for the Wood
28 Class to retain and pay for these experts itself.

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CONCLUSION

For the reasons stated above, the Court should allocate the costs incurred by Entrix to the Public Water Suppliers, as requested by Plaintiff Wood.

Dated: June 4, 2009

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