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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

11 **ANTELOPE VALLEY**
12 **GROUNDWATER CASES**

) JUDICIAL COUNCIL COORDINATION
) PROCEEDING NO. 4408

13
14 This Pleading Relates to Included Action:
REBECCA LEE WILLIS, on behalf of
herself and all others similarly situated,

) CASE NO. BC 364553
)
)

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16 Plaintiff,

) **MEMORANDUM IN PARTIAL**
) **OPPOSITION TO THE PUBLIC WATER**
) **SUPPLIERS' ELECTION UNDER**
) **GOVERNMENT CODE SECTION 984(d)**

17 vs.

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

) Date: November 15, 2011
) Time: 9:00 a.m.
) Dept: 15 (CCW)
) Judge: Hon. Jack Komar
Coordination Trial Judge

24 Defendants.
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1 Willis class counsel respectfully submits this memorandum in partial opposition to the
2 Public Water Suppliers' (Suppliers') election under Government Code Section 984(d) to pay the
3 Court's September 26, 2011 fee award over a period of ten years. Class Counsel do not object to
4 the election in general, but request that the Court order that the Suppliers make these payments
5 over no more than five (5) years.

6 **ARGUMENT**

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8 There are substantial questions whether the Suppliers' election is valid under Section
9 984(d), including (1) whether the statute is applicable given that the section is expressly limited
10 to judgments "on a tort claims action against a public entity;" and (2) whether the amount of the
11 judgment qualifies for the election given the partial satisfaction of judgment filed by Palmdale
12 Water District on October 11, 2011 (in the amount of \$567,165). However, the Court need not
13 reach those issues because Class Counsel do not object to the election as such.

14 Class Counsel do, however, object to the Suppliers' request that they be given a full ten
15 years to pay the Judgment and request that the Court limit the Suppliers' payments to five years.
16 It is clear under section 984 that the Court has discretion to determine the appropriate period of
17 time for such payments, which cannot exceed ten years "or the length of the judgment-creditor's
18 remaining life expectancy." The ten year payment period is unwarranted and unreasonable here,
19 given that Class Counsel have worked on this matter for 5 years already without any
20 compensation until the Court's fee award earlier this year. Class Counsel invested significant
21 amounts of time and out-pocket expenses throughout the course of this litigation, some of which
22 can never be recovered. This investment came at a great cost to the firm in terms of capital,
23 opportunity costs, and risks. The proposed ten year term is too long for the firm to recover its
24 fees. Willis Class Counsel respectfully requests that the court periodicize the remaining balance
25 due under the judgment over a period of five (5) years, and order that Suppliers make five equal
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payments commencing no later than June 15, 2012, with interest accruing at the statutory rate from the date of the judgment.

Dated: November 7, 2011

KRAUSE KALFAYAN BENINK
& SLAVENS LLP

/s/Ralph B. Kalfayan
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David B. Zlotnick, Esq.
Attorneys for Plaintiff and the Class