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Attorneys for Plaintiff

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

Judicial Council Coordination
Proceeding No. 4408

ANTELOPE VALLEY WATER CASES

(Santa Clara Case No. 1-05-CV-049053,
Honorable Jack Komar)

RICHARD A. WOOD, an individual, on
behalf of himself and all others similarly
situated,

Case No.: BC391869

**POST-'MEET AND CONFER'
STATUS REPORT ON MOTION FOR
ORDER DISQUALIFYING THE LAW
FIRM OF LEMIEUX & O'NEIL**

Plaintiff,

v.

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et al.

Date: July 24, 2009
Time: 1:30 p.m.
Dept.: 1

Defendants.

1 On July 10, 2009, Lemieux & O’Neil (“Lemieux”) sent a letter to Mr. Dunn
2 detailing their plan to re-align their eight clients with respect to the existing First
3 Amended Cross-Complaint. Thereafter, various parties, including counsel for Richard
4 Wood, exchanged e-mails in an attempt to meet and confer on the proposed plan.

5 On June 20, 2009, approximately a dozen counsel had a conference call, lasting 90
6 minutes, during which time many issues were addressed relative to the disqualification
7 motion and the larger problems with the pleadings in this case.

8 The position of Richard Wood remains unchanged. The litigation of this matter
9 for these past years with the fundamental defect of one set of jointly represented clients
10 actively litigating (through two phases of trial) against another set of parties represented
11 by the same counsel renders this entire proceeding subject to undoing, if left un-
12 remedied. Regrettably, the law affords only one remedy, but while harsh, this situation is
13 was knowingly created by Lemieux to the peril of not only his clients, but all the other
14 parties who have invested so much. The California Supreme Court has stated quite
15 clearly that in situations involving joint representation of clients whose interests actually
16 conflict, disqualification is automatic. (*Flatt v. Superior Court* (1994) 9 Cal.4th 275, 284-
17 86.) There are no applicable exceptions to this rule.

18 It should also be noted again that none of the six clients involved in this actual
19 conflict of interest has submitted a declaration regarding their knowledge, alleged waiver,
20 and their intentions going forward regarding the conflict that has been ongoing for the
21 past two years. While Plaintiff does not believe this information can save Lemieux from
22 disqualification, if the Court is inclined to entertain some other remedy, each of these six
23 clients need to be on the record directly (not through counsel). Plaintiff has repeatedly
24 raised this point, and Lemieux has on each occasion refused.

1 DATED: July 21, 2009

LAW OFFICES OF MICHAEL D. McLACHLAN
LAW OFFICE OF DANIEL M. O'LEARY

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4 By: _____//s//

5 Michael D. McLachlan
6 Attorneys for Plaintiff
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PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action. My business address is 523 West Sixth Street, Suite 215, Los Angeles, California 90014.

On July 21, 2009, I caused the foregoing document(s) described as **POST-‘MEET AND CONFER’ STATUS REPORT ON MOTION FOR ORDER DISQUALIFYING THE LAW FIRM OF LEMIEUX & O’NEIL**

be served on the parties in this action, as follows:

- (X) (BY ELECTRONIC SERVICE) by posting the document(s) listed above to the Santa Clara County Superior Court website: www.scefiling.org regarding the Antelope Valley Groundwater matter.
- () (BY U.S. MAIL) I am readily familiar with the firm’s practice of collection and processing of documents for mailing. Under that practice, the above-referenced document(s) were placed in sealed envelope(s) addressed to the parties as noted above, with postage thereon fully prepaid and deposited such envelope(s) with the United States Postal Service on the same date at Los Angeles, California, addressed to:
- () (BY FEDERAL EXPRESS) I served a true and correct copy by Federal Express or other overnight delivery service, for delivery on the next business day. Each copy was enclosed in an envelope or package designed by the express service carrier; deposited in a facility regularly maintained by the express service carrier or delivered to a courier or driver authorized to receive documents on its behalf; with delivery fees paid or provided for; addressed as shown on the accompanying service list.
- () (BY FACSIMILE TRANSMISSION) I am readily familiar with the firm’s practice of facsimile transmission of documents. It is transmitted to the recipient on the same day in the ordinary course of business.
- (X) (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- () (FEDERAL) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

//s//
Carol Delgado