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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

RICHARD A. WOOD, an individual,

Case No.: BS143790

Petitioner,

**OPPOSITION TO PETITION FOR
ADD-ON CASE; DECLARATION OF
MICHAEL D. MCLACHLAN**

v.

COUNTY OF LOS ANGELES,

Respondent.

1 Petitioner Richard Wood hereby opposes the Petition for Add-on Case filed by
2 Los Angeles County Waterworks District No. 40 (“Waterworks”). For many reasons
3 both substantive and procedural, the Court must deny the Petition.

4 **A. Pertinent Facts**

5 On July 2, 2013, Richard Wood filed a Petition for Writ of Mandate to Compel
6 Release of Public Records and Compliance with California Public Records Act against
7 the County of Los Angeles, Case No. BS143790 (hereinafter “Mandate Proceeding”).
8 That action seeks to compel the production of certain records under the California Public
9 Records Act, Government Code section 6250 *et seq.* (the “PRA”). The Mandate
10 Proceeding does not in any way seek to litigate or determine any issues concerning the
11 determination of water rights in the Antelope Valley.

12 The Mandate Proceeding, which does not name Waterworks as a defendant, is set
13 for a trial setting conference on October 15, 2013 before Judge James Chalfant in
14 Department 85 of the Los Angeles Superior Court.

15 **B. The Add-On Petition Cannot be Granted Due to Its Procedural Defects**

16 The Add-On Petition fails to comply with the mandatory requirements of both the
17 Code of Civil Procedure and the California Rules of Court. “A request to coordinate an
18 add-on case must comply with the requirements of rules 3.520 through 3.523, except
19 that the request must be submitted to the coordination trial judge under Code of Civil
20 Procedure section 404.4 . . .” (C.R.C. Rule 3.544(a).) Rule of Court 3.521 sets forth the
21 required content for both coordination and add-on petitions. The Petition does not
22 contain the facts necessary “to show that each included action meets the coordination
23 standards specified [Section] 404.1.” (Rule 3.521(a)(7).) Specifically, as set forth in
24 Section C, below, it does not specify the predominate nexus of common law and fact
25 between the actions. The Petition also fails to: properly identify the real parties in
26 interest and the attorneys of records (Rule 3.521(a)(1)); identify the “names of the
27 parties to all included actions,” and the name and address of their attorney or record
28 (Rule 3.521(a)(2)); provide the title, case number and courts in which each included

1 action is pending (Rule 3.521(a)(4)); state the status of each included action (Rule
2 3.521(a)(6)).

3 Moreover, Waterworks does not have standing to pursue this Petition because it is
4 not a party to the action in question, which is brought against the County of Los
5 Angeles. Waterworks is a distinct legal entity from the County of Los Angeles, and
6 hence not a party to *Wood v. County of Los Angeles*. (C.R.C. Rule 3.531(a) (“Any party
7 to an included action . . . must promptly provide notice of any potential add-on cases in
8 which that party is also named or in which that party’s attorney has appeared.”).¹ As
9 Waterworks has made clear in these coordinated proceedings, it is not the County of Los
10 Angeles. (McLachlan Decl. ¶ 2, Ex. 1.)

11 **C. There Is No Common Issue of Fact or Law Predominating Between the**
12 **Coordinated Actions and the Mandate Proceeding**

13 More importantly, even if this Petition was in proper form and brought by a
14 proper party, it fails because it does not meet the standard set forth in C.C.P. section
15 404.1. (C.R.C. Rule 3.544 and 3.501(2).) Section 404.1 requires that the action share a
16 common question of law and fact and that such common question predominate. Here,
17 there is no common question of fact or law. The Antelope Valley Groundwater Cases
18 and the Mandate Proceeding do not share a common cause of action, statutory basis for
19 relief, or even a common remedy. The facts necessary to adjudicating the Mandate
20 Proceeding have nothing whatsoever to do with any of the facts relevant to this Court in
21 adjudicating the coordinated actions. As noted below, the fact that some of the
22 documents at issue in the Mandate Proceeding were generated by attorneys or
23 consultants who worked on the Antelope Valley Groundwater Cases.

24 Waterworks suggests that the Mandate Proceeding is somehow improper attempt
25 to circumvent discovery in this proceeding. (Petition at 1:16-19.) Waterworks is again
26

27 ¹ The County of Los Angeles has also failed to enter an appearance in the
28 Mandate Proceeding. (McLachlan Decl. ¶ 3.)

1 wrong on the law and the facts. The suggestion that a party somehow surrenders his
2 rights under the Public Records Act has been roundly rejected. “[T]he whole purpose of
3 the CPRA is to shed light on the activities of our governmental entities, and it is a small
4 price to pay to require disclosure of public records even to a litigant opposing the
5 government, outside the rules of discovery.” (*Fairley v. Superior Court*, 66 Cal.App.4th
6 1414, 1422 (1998) (reversing trial court ruling that Discovery Act trumped Public
7 Records Act rights). The County of Los Angeles has taken this issue to the Court of
8 Appeal and lost on several occasions resulting in published opinions .. (*See, e.g.,*
9 *County of Los Angeles v. Superior Court (Axelrod)*, 80 Cal.App.4th 819, 829 and n.9.)

10 Most recently, and directly on point to the issues raised in the Mandate
11 Proceeding, is *County of Los Angeles v. Superior Court*, 211 Cal.App.4th 57 (2013),
12 *review denied* Feb. 20, 2013. In that case, the court held that a litigant can collaterally
13 compel the attorney fee bills of his public agency opponent under the Public Records
14 Act. (*Id.* at 60.) Relying on *Fairley*, *Axelrod*, and other related cases, the court rejected
15 the argument that the rights of a private citizen are in any way limited by the existence
16 of pending litigation between the parties. (*Id.* at 66.) The court then held that fee bills
17 are not exempt from production under the Public Records Act because they are not
18 “specifically prepared for use in litigation.” (*Id.* at 67.)

19 In sum, *County of Los Angeles* and the line of authority it cites, affirm that rights
20 under the Discovery Act are entirely independent from those under the PRA, and are in
21 no way limited by pending litigation.

22 Although the above-cited authority moots Waterworks argument that Richard
23 Wood is attempting to circumvent discovery order, it must be noted that he has never
24 made any discovery requests in the Antelope Valley Groundwater Cases for any of the
25 records at issue in the Mandate Proceeding. (McLachlan Decl. ¶ 4.) And, Wood is not
26 representing the Class in the Mandate Proceeding, but rather himself.

27 While the lack of common facts and law is dispositive of the matter, the Court
28 could also deny this Petition for failing to constitute an “efficient utilization of judicial

1 facilities and manpower.” (C.C.P. § 404.1.) The Los Angeles Superior Courts have
2 dedicated Court designed to handle writ proceedings, as well as a detailed set of local
3 rules applicable to those proceedings. (Los Angeles Superior Court Local Rules 2.7(g)
4 and 3.231.) This Court would have to specially set a trial date for the Mandate
5 Proceeding, and conduct all of the related pre-trial and post-trial proceedings, all of
6 which are entirely unique to the Mandate Proceeding. The Court certainly has more than
7 enough work ahead of it; there is no need to add further distraction arising from an
8 independent proceeding that is well outside the scope of the Court’s assignment under
9 the Coordination Order. Furthermore, adding the Mandate Proceeding would cost the
10 other litigants time and resources in monitoring the Writ Proceedings, and would divert
11 attention from other important matters at hand.

12 **D. Conclusion**

13 For the foregoing reasons, and in particular because the Mandate Proceeding does
14 not share common law and fact with the coordinated actions, Petitioner Richard Wood
15 respectfully requests that the Court deny the Add-on Petition.

16
17 DATED: September 23, 2013

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

18
19
20 By:_____

21 Michael D. McLachlan
22 Attorneys for Petitioner Richard A. Wood
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1. I am an attorney duly licensed to practice before all courts of the State of California. I am an attorney of record for Petitioner Richard Wood, plaintiff in *Wood v. County of Los Angeles*, Case No. BS143790. The following is based on my personal knowledge and if called as a witness, I could and would testify competently thereto.

3. The County of Los Angeles has not entered an appearance in *Wood v. County of Los Angeles*.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 23rd day of September 2013 at Los Angeles, California.

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EXHIBIT 1

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

Coordination Proceeding)
Special Title (Rule)
1550(b)))
)
ANTELOPE VALLEY GROUNDWATER) LEAD CASE No. BC325201
CASES,)
_____) CASE No. BC 391869
RICHARD A. WOOD, an)
individual, on behalf of)
himself and all others)
similarly situated,)
Plaintiff,)
vs.)
LOS ANGELES COUNTY)
WATERWORKS DISTRICT NO. 40;)
et al.)
Defendants.)

DEPOSITION OF ADAM ARIKI, VOLUME I

Los Angeles, California

Friday, April 12, 2013

Reported by:
Angela S. Hartsock
CSR No. 12620
Job No. 1618985

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

Coordination Proceeding)
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RICHARD A. WOOD, an)
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Plaintiff,)
vs.)
LOS ANGELES COUNTY)
WATERWORKS DISTRICT NO. 40;)
et al.)
Defendants.)

Deposition of ADAM ARIKI, Volume I, taken on
behalf of Plaintiff, at 707 Wilshire Boulevard, Los
Angels, California, commencing at 9:13 a.m., and ending at
12:37 p.m., on Friday, April 12, 2013, before Angela S.
Hartsock, Certified Shorthand Reporter, No. 12620.

1 Los Angeles, California, Friday,

2 April 12, 2013, 9:13 a.m.

3
4 THE COURT REPORTER: Please raise your right hand
5 to be sworn.

6 You do swear or affirm that the evidence you will
7 give in this matter will be the truth, the whole
8 truth, and nothing but the truth?

9 MR. ARIKI: I do.

10
11 THEREUPON,

12 ADAM ARIKI,
13 a witness, having been first duly sworn, upon his oath,
14 testified as follows:

15
16 DIRECT EXAMINATION

17 BY MR. MCLACHLAN:

18 Q Could you please state and spell your name for
19 the record.

20 A First name is Adam, A-d-a-m. Last name is Ariki,
21 A-r-i-k-i.

22 Q Mr. Ariki, do you have a middle name?

23 A Yes, middle initial is A.

24 Q Have you ever been deposed before?

25 A Yes, I have.

1 One other thing that's important for the court
2 reporter is that if you are one of those people like I am
3 who uses uh-huh or uh-huh or gestures, that won't work for
4 the transcript. So try to respond in a verbal manner.
5 Yes, no or some other verbal response, and if I prompt you
6 in that regard, it's simply to make a record and try to
7 move things along. With that -- well, there's one other
8 question.

9 Is there any reason that you don't feel you can
10 give your best testimony today? Are you ill or under the
11 effects of any medication that might affect your cognitive
12 abilities?

13 A No, there is no reason.

14 Q With that we will start with some questioning.
15 Could you please tell me who you are currently employed
16 by?

17 A I'm employed by Los Angeles County Department of
18 Public Works.

19 Q And how long have you been employed by the
20 Department of Public Works?

21 A 24 years and one month.

22 Q What's your current job title?

23 A I'm the assistant deputy director for the
24 Waterworks Division.

25 Q Who do you directly report to?

1 A On an as-needed basis.

2 Q So are there some years in which this analysis
3 has not been performed?

4 A That is correct.

5 Q And the analysis is done by somebody that is
6 working in Waterworks District 40?

7 A Correct.

8 Q Now, Waterworks District 40, is it a separate
9 legal entity?

10 A Correct.

11 Q Do you know what type of entity it is?

12 MR. WELLEN: Calls for a legal conclusion.

13 BY MR. MCLACHLAN:

14 Q Do you know what form of an entity it is?

15 MR. DUNN: Objection. Calls for a legal
16 conclusion. I'll instruct him not to answer that
17 question.

18 MR. MCLACHLAN: Really? How does it possibly
19 call for a legal conclusion? His knowledge of what
20 sort of entity it is.

21 MR. DUNN: I'm going to further object on the
22 grounds it's just not relevant to what we are here at
23 this phase of trial. There is no dispute in terms of
24 what kind of legal entity Waterworks District 40 is.

25 Object further to the question. I think it's

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, Angela S. Hartsock, CSR No. 12620, do hereby
certify:

That the foregoing proceedings were taken before
me at the time and place herein set forth; that any
witnesses in the foregoing proceedings, prior to
testifying, were placed under oath; that a verbatim
record of the proceedings was made by me using machine
shorthand which was thereafter transcribed by me or
under my direction; further, that the foregoing is an
accurate transcription thereof.

I further certify that I am neither financially
interested in the action nor a relative or employee of
any attorney of any of the parties.

IN WITNESS WHEREOF, I have subscribed my name.

Date: 04/24/2013

Angela S. Hartsock
CSR, No.12620.