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Attorneys for Plaintiff Richard Wood and the Class

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER
CASES

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

Plaintiff,

v.

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

Defendants.

Judicial Council Coordination
Proceeding No. 4408

Lead Case No. BC 325201

Case No.: BC 391869

**RICHARD WOOD'S REPLY TO
OBJECTION OF MARK RITTER,
TO ENTRY OF JUDGMENT AS TO
THE RITTER FAMILY TRUST;
DECLARATION OF MICHAEL D.
MCLACHLAN**

1 **I. INTRODUCTION**

2 The Ritter Trust has been a party to this litigation since 2005, when the
3 several individual cases transitioned to the coordinated proceeding. The Ritter
4 Trust, through its counsel of record, filed well in excess of 100 filings in these
5 actions over a more than seven years. On December 14, 2012, in response to
6 orders of this Court, the Ritter Trust filed its Notice of Intent to Participate in the
7 Phase 4 Trial. However, the Ritter Trust did not appear at the Phase 4 trial to
8 establish its current groundwater production (nor did it file the Court-ordered
9 discovery required for Phase 4).

10 The Ritter Trust continues to be Party to this litigation, to date has ignored
11 this Court's Case Management Orders for the current phase of trial. The Ritter
12 Trust did not file a Notice of Claim, failed to participate in discovery, and
13 otherwise ignored all of this Court's Orders leading up to the Phase 6 Trial.

14 To date, notwithstanding being advised of counsel and retaining Mr.
15 Brumfield as counsel, Mark Ritter has taken no steps to timely present a claim at
16 trial, or to otherwise file a motion for relief from the various deadlines he has
17 ignored. Ritter has not obtained any stay or severance of his claims. Trial is
18 over and the presentation of evidence is concluded as to all but the Robar parties
19 who, unlike Ritter, did timely seek relief. Even in the face of pending Request
20 for Judgment, Ritter has failed to file a motion, nor has he to date he filed any
21 declaration that would give the Court any indication as to how his delay over the
22 past five years as successor trustee could possibly be excused.

23 There is a larger concern at issue here as well: not establishing a
24 precedent whereby parties to this adjudication, over whom the Court has had
25 jurisdiction, do not have their claims adjudicated and instead are instead left to
26 the indefinite future, unresolved.

27 For these reasons, as further explained below, the Court should enter
28 judgment against the Ritter Family Trust.

II. FACTAUL BACKGROUND

A. The Ritters Were Named in 2005 and Answered Through Counsel.

On November 2, 2005, Los Angeles County Waterworks District No. 40 (“District 40”) filed its first sizeable Doe amendment, naming numerous landowner parties, including Edgar C. Ritter, Paula E. Ritter, and Paula E. Ritter (collectively, “The Ritters”). (McLachlan Decl., Ex. 1 (“Amendment to Complaint,” filed November 2, 2005.)) It appears that the Ritter’s first appeared in the action through counsel on November 28, 2005. On that date, attorneys Michael Fife and Bradley Herrema, then at the firm of Hatch & Parent, filed a Case Management Conference Statement listing the Ritters as members of the Antelope Valley Ground Water Agreement Association (“AGWA”). (Ex. 2.) The Ritter’s continued to be listed among AGWA’s members for approximately seven and one-half years, formally participating in phases one through four of the trial proceedings. (McLachlan Decl., ¶ 5.)

B. The Ritters Litigated Their Claims Through Counsel for Over Seven Years, Then Disappeared.

On January 18, 2006, the public water suppliers filed their initial Cross-Complaint, naming a number of larger landowners as cross-defendants, including Edgar C. Ritter, Paula E. Ritter, and Paula E. Ritter, as trustee of the Ritter Family Trust. (Ex. 3, (“Cross-Complaint of Municipal Purveyors For Declaratory and Injunctive Relief and Adjudication of Water Rights”), 6:1-3 [Dkt. No. 134].)¹ On January 2, 2007, the Ritters filed their Answer. (Ex. 4 (“Answer to All Cross-Complaints”) [Dkt. No. 411].) On that same date, the

¹ The Ritter parties were named as defendants in at least one earlier Cross Complaint. (*See, e.g.*, Cross-Complaint of City of Palmdale, filed December 1, 2005 [Dkt. 66].)

1 Ritter's filed a Cross-Complaint which remains pending to this date.
2 (McLachlan Decl., Ex. 5 [Dkt. No. 412].)

3 On September 9, 2008, the Court issued its "Case Management Order For
4 Phase 2 Trial," requiring parties to file a notice of intent to participate in that
5 phase of trial. [Dkt. 1929, at ¶ 9.] The Ritters complied with that Order by filing
6 such notice. (Ex. 6 [Dkt. No. 1978].) The Ritters continued as active litigants –
7 continuously represented by the Brownstein Hyatt firm – and again four years
8 later, pursuant to Court order, they filed a notice of intent to participate in the
9 Phase 4 trial. (McLachlan Decl., Ex. 7, ("AGWA's Notice of Intent to Participate
10 in Phase Four Trial"), filed December 14, 2012 [Dkt. No. 5413].)² Phase 4 was
11 the portion of these trial proceedings designated for parties to establish current
12 groundwater pumping.

13 The Brownstein Hyatt firm continued to represent the Ritters on filings
14 with this Court through the end of February of 2013, but after that time, they
15 disappeared from the pleadings and do not re-surface. (McLachlan Decl., ¶ 5; Ex.
16 10 ("Notice of Ex Parte Application for Approval of Stipulation [of Facts for
17 Phase IV trial], filed March 15, 2013 [Dkt. No. 6189].) There appears to be no
18 record of the filing of a substitution of counsel, a motion to withdraw, any other
19 written notice to the Court, nor any mention of the Ritters at the ensuing Phase 4
20 trial, which occurred two months later. The Ritters simply disappeared until
21 September of 2015. (McLachlan Decl., ¶ 14.)

22
23
24 ² The Phase 4 Case Management Orders required parties to provide
25 detailed discovery disclosures under penalty of perjury by January 31, 2013.
26 (McLachlan Decl., Exs. 8 & 9.) The Brownstein Hyatt firm filed
27 approximately 25 separate declarations on behalf of its various AGWA
28 group clients on January 30 and 31, 2013, but nothing was filed for the
Ritters. (McLachlan Decl., ¶ 12.)

1 **C. The Ritter Trust Re-Surfaces in September of 2015**

2 On March 27, 2015, the Court signed the Second Amended Case
3 Management Order for what has become to be known as the Phase 6 trial, i.e.
4 the prove-up of the “global” stipulated settlement. (Ex. 11.) That Order set forth,
5 among others, the following deadlines: (1) non-stipulating parties to file and
6 serve a Notice of Claim by April 7, 2015 (*id.* at ¶ 3); (2) all parties to disclose
7 witnesses and exhibits by April 27, 2015 (¶ 4); and (3) completion of discovery
8 by July 17, 2015. The Ritters complied with none of these deadlines, and indeed,
9 to this date, have not filed a notice of claim or any discovery-related documents
10 in response to any of the Court’s various Orders over the years. (McLachlan
11 Decl., ¶ 15.)

12 On September 3, 2015, attorney Robert Brumfield filed a Case
13 Management Conference Statement on behalf of the Ritter Family Trust, which
14 appears to be the first filing by the Ritters in over two years. (McLachlan Decl.,
15 Ex. 12. [Dkt. No. 10,388].) In that filing, Mr. Brumfield states that on August 14,
16 2015, he met with Mark Ritter, the son of Edgar and Paula Ritter, and successor
17 trustee to the Ritter Family Trust about the Trusts potential claim to
18 groundwater. (Ex. 12, 2:5-16.) Mr. Brumfield also stated that he would take
19 steps to have the Brownstein Hyatt firm execute the necessary Substitution of
20 Attorney form because that firm was still counsel of record for the Ritters. (*Id.*
21 at 2:8-10, 2:23-25.)

22 To date, no Substitution of Counsel has been filed, and Mr. Brumfield has
23 never made a request for relief to present a late claim, relief from the various
24 Phase 6 trial deadlines, or made any request to sever the Ritter Trust claim. Not
25 until October 30, 2015 – after the close of evidence and on the eve of closing
26 arguments – did Mr. Brumfield make any mention of the Ritter Trust’s claim.
27 (McLachlan Decl., ¶ 17.)
28

1 During the October 30, 2015 status conference, attorney Michael Fife
2 represented to the Court that “no attorney-client relationship was ever formed”
3 and that Paula Ritter considered joining AGWA but never did, never signed a
4 retainer agreement, and never paid any portion of his legal bills. (McLachlan
5 Decl., ¶ 18.)³

6 Finally, although Paula Ritter died on November 30, 2010,⁴ it appears that
7 she was fully aware of the pendency of this litigation because she signed a Notice
8 of Acknowledgement of Receipt for the public water suppliers’ First Amended
9 Cross-Complaint. (Ex. 13.)

10 **III. ARGUMENT**

11 Plaintiff Richard Wood will not recite the foregoing facts here in full
12 detail, but will attempt to summarize them. Paula Ritter individually and as
13 trustee of the Ritter Family Trust filed an identified as a party to these
14 proceedings in 2005, and made her first formal appearance through counsel,
15 Michael Fife (then of Hatch & Parent) in that same year. The Ritters filed an
16 Answer to all pending Cross-Complaints on January 2, 2007, and thereafter
17 were identified as members of AGWA on more than 100 and perhaps as many as
18 200 filings with this Court through March of 2013. The Ritters participated in
19 all phases of trial through Phase 4 (by virtue of having filed a Notice of Intent to
20

21
22 ³ In light of the history set forth above, this representation strains
23 credulity to the breaking point. However, it must be true that no attorney-client
24 relationship could have been formed with Edgar Ritter because he died in
February of 1992, approximately seven years prior to the filing of the initial
Complaints in this action:

25 http://articles.latimes.com/1992-02-25/local/me-2623_1_ritter-s-name
(Ex. 14.)

26 ⁴ Paula E. Ritter’s *Antelope Valley Press* obituary notice:
27 <http://www.avpress.com/obit-archive.php?obit=31026851>
(Ex. 15.)
28

1 Participate), but they made no claim of current pumping and thus are not
2 included in the Statement of Decision for Phase 4. The Ritters essentially
3 defaulted.

4 The stipulating parties negotiated extensively from late 2013 through early
5 2015 to arrive at the “global” stipulated settlement. A major part of those
6 negotiations were allocation of water rights. (McLachlan Decl., ¶ 22.) Over the
7 past two years, there was no mention by counsel for AGWA of the Ritters or their
8 claim. (*Ibid.*)

9 For nearly ten years now, the Ritter Trust has been formally represented
10 by Michael Fife of Hatch & Parent and later the Brownstein Hyatt firm. That
11 remains the case to date. Yet, the Ritter Trust did not comply with any of the
12 Phase 6 deadlines. Mark Ritter, the successor trustee (apparently for nearly five
13 years now, per footnote 4, above), has sat on his hands. Even after attempting to
14 retain new counsel over two and one half-months ago, the Ritter Trust has taken
15 no steps whatsoever to obtain relief from this Court or to present its claim.

16 The prejudice from to the Stipulating Parties, and even potentially to some
17 of the Non-Stipulating parties, is quite clear. The Court set an orderly process
18 for resolving an extremely complex case with thousands of parties. The Ritter
19 Trust, with its purported claim of approximately 800 acre-feet per, seriously
20 jeopardizes that order and all of the rights of the parties who diligently litigated
21 this case and complied with the Court’s orders. There is no basis for severing the
22 Ritter Trust claim.

23 **B. There Is a Larger, Important Principle At Stake Here.**

24 The issue presented by the Ritter Trust is likely larger than its claim, and
25 hence is one that requires very careful consideration. If the Ritter Trust
26 successfully pursues a late claim, the parties should expect a series of such
27 claims well into the future from “non-appearing” parties to this adjudication.
28

1 The sudden arrival of the Ritter Trust claim, combined with prior
2 knowledge that AGWA had similarly abandoned White Fence Farms Mutual
3 Water Co. No. 3, has caused Class Counsel to undertake an analysis of the
4 AGWA pleadings over the years. Although that analysis is still underway, it
5 appears there are more than 30 persons or entities that have been members of
6 AGWA and clients of the Brownstein Hyatt firm over the years that have been
7 dropped from that firm's pleadings with no record of filing a substitution of
8 counsel, a motion to withdraw, or any notice to the Court.⁵ (McLachlan Decl., ¶
9 18.) In short, it appears that the Brownstein Hyatt Firm currently represents
10 approximately 30 parties to this adjudication that have not filed a claim. There
11 are of course many other non-AGWA parties who filed answers and who did not
12 appear to present claims.

13 **IV. CONCLUSION**

14 For the foregoing reasons, the Court should enter judgment against the
15 Ritter Trust, Mark Ritter as successor trustee, and Paula Ritter individually.

16
17 DATED: December 16, 2015

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

18
19
20
21 By: _____
Michael D. McLachlan
Attorneys for Plaintiff Richard Wood

22 _____
23 ⁵ Counsel for AGWA has filed at least four Substitution of Counsel forms in
24 this action. Several of those involve pro per substitutions for self-represented
25 parties who have not litigated their claims to groundwater to this point (Ramin
26 Zamorodi, Paul and Sharon Kendig, William Barnes, and the Barnes Trust of
27 1989). Counsel for AGWA has also on one occasion filed a "Notice Regarding
28 New Counsel," advising the Court of a change in counsel for Del Sur Ranch, LLP.
[Dkt. No. 1168 (January 28, 2008).] Hence, it is clear that the Brownstein Hyatt
firm understands the basic "Lawyer 101" concepts of party representation during
litigation.

1 **DECLARATION OF MICHAEL D. MCLACHLAN**

2 I, Michael D. McLachlan, declare:

3 1. I make this declaration of my own personal knowledge, except where
4 stated on information and belief, and if called to testify in Court on these matters,
5 I could do so competently.

6 2. I am co-counsel of record of record for Plaintiff Richard Wood and
7 the Small Pumper Class, and am duly licensed to practice law in California.

8 3. Attached as "Exhibit 1" is a true and correct copy of the relevant
9 pages of District 40's "Amendment to Complaint," filed November 2, 2005.

10 4. Attached as "Exhibit 2" is a true and correct copy of the November
11 28, 2005 Case Management Conference Statement filed by attorneys Michael
12 Fife and Bradley Herrema, then at the firm of Hatch & Parent, listing the Ritters
13 as members of the Antelope Valley Ground Water Agreement Association
14 ("AGWA").

15 5. My staff and I have undertaken to review the AGWA filings in this
16 matter. The Ritter's were consistently listed among AGWA's members for
17 approximately seven and one-half years (until March of 2013). The Ritters do
18 not appear on the AGWA filings thereafter. We have not counted the total
19 number of filings made by the Ritters through AGWA, but they are well in excess
20 of 100 and likely more than 200 in total.

21 6. Attached as "Exhibit 3" is a true and correct copy of the public water
22 suppliers' initial Cross-Complaint, naming a number of larger landowners as
23 cross-defendants, including Edgar C. Ritter, Paula E. Ritter, and Paula E. Ritter,
24 as trustee of the Ritter Family Trust.

25 7. On January 2, 2007, the Ritters filed their Answer, a true and
26 correct copy of which is attached as "Exhibit 4."

27 8. Attached as "Exhibit 5" is a true and correct copy of the
28 AGWA/Ritter Cross-Complaint, which remains pending to this date.

1 9. Attached as “Exhibit 6” is a true and correct copy of the AGWA
2 Notice of Intent for Phase 2.

3 10. Attached as “Exhibit 7” is a true and correct copy of “AGWA’s Notice
4 of Intent to Participate in Phase Four Trial,” filed December 14, 2012 [Dkt. No.
5 5413].) Phase 4 was the portion of these trial proceedings designated for parties
6 to establish current groundwater pumping.

7 11. Attached as “Exhibit 8” and “Exhibit 9” are true and correct copies of
8 The Phase 4 Case Management Orders requiring parties to provide detailed
9 discovery disclosures under penalty of perjury by January 31, 2013.

10 12. The Santa Clara Superior Court docket for this matter shows that the
11 Brownstein Hyatt firm filed approximately 25 separate declarations on behalf of
12 its various AGWA group clients on January 30 and 31, 2013, but nothing was
13 filed for the Ritters.

14 13. I have reviewed the Brownstein Hyatt firm filings in 2012 and early
15 2013. That firm continued to represent the Ritters on filings with this Court
16 through the end of February of 2013, but after that time, they disappeared from
17 the pleadings and do not re-surface. The first pleading in which the Ritters
18 appear to have been dropped was the “Notice of Ex Parte Application for
19 Approval of Stipulation [of Facts for Phase IV trial], filed March 15, 2013 [Dkt.
20 No. 6189].) Attached as “Exhibit 10” is a true and correct copy of that filing.

21 14. I can find no record on the Court docket of the filing of a
22 substitution of counsel, a motion to withdraw, any other written notice to the
23 Court, nor any mention of the Ritters at the ensuing Phase 4 trial, which
24 occurred two months later. The Ritters simply disappeared until September of
25 2015.

26 15. On March 27, 2015, the Court signed the Second Amended Case
27 Management Order for what has become to be known as the Phase 6 trial, i.e.
28 the prove-up of the “global” stipulated settlement, a true and correct copy of

1 which is attached as “Exhibit 11.” That Order set forth, among others, the
2 following deadlines: (1) non-stipulating parties to file and serve a Notice of
3 Claim by April 7, 2015 (*id.* at ¶ 3); (2) all parties to disclose witnesses and
4 exhibits by April 27, 2015 (¶ 4); and (3) completion of discovery by July 17, 2015.
5 I find not record that the Ritters complied with any of these deadlines, and
6 indeed, to this date, they have not filed a notice of claim or any discovery-related
7 documents in response to any of the Court’s various Orders over the years.

8 16. Attached as “Exhibit 12” is a true and correct copy of the September
9 3, 2015, Case Management Conference Statement filed by attorney Robert
10 Brumfield.

11 17. To date, Mr. Brumfield has not filed a motion for request for relief
12 to present a late claim, relief from the various Phase 6 trial deadlines, or pursued
13 a motion to sever the Ritter Trust claim. I was present during the Phase 6 Trial
14 and do not recall any mention of the Ritters until the status conference on
15 October 30, 2015.

16 18. I participated in the telephonic status conference on October 30,
17 2015, during which attorney Michael Fife represented to the Court that “no
18 attorney-client relationship was ever formed” and that Paula Ritter considered
19 joining AGWA but never did, never signed a retainer agreement, and never paid
20 any portion of his legal bills.

21 19. Attached as “Exhibit 13” is a true and correct copy of the Notice of
22 Acknowledgement of Receipt signed by Paula Ritter.

23 20. Attached as “Exhibit 14” is a true and correct copy of the obituary
24 for Edgar Ritter.

25 21. Attached as “Exhibit 15” is a true and correct copy of the obituary
26 for Paula Ritter.

27 22. The stipulating parties negotiated extensively from late 2013
28 through early 2015 to arrive at the “global” stipulated settlement. A major part

1 of those negotiations were allocation of water rights. Over the past two years,
2 until recently, I have not heard of any mention by counsel for AGWA of the
3 Ritters or their claim.

4 I declare under penalty of perjury under the laws of the State of California
5 that the foregoing is true and correct. Executed this 16th day of December, 2015,
6 at Hermosa Beach, California.

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Michael D. McLachlan