

McLACHLAN LAW

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August 31, 2021

**VIA E-FILING**

Hon. Jack Komar (ret.)  
c/o Santa Clara County Superior Court  
Department D-17  
161 N. First Street  
San Jose, CA 95113

**Re: *Antelope Valley Groundwater Litigation, JCCP 4408*  
*Wood v. Los Angeles County Waterworks Dist. No. 40***

Dear Judge Komar:

As you are aware, the Court of Appeal for the Fifth District recently issued its opinion in *Wood v. Los Angeles County Waterworks Dist. No. 40 et al.* (Case No. FO83138), reversing and remanding the matter to the trial court for further proceedings.

I write to address a matter informally that is of particular concern upon remand. Specifically, we are informed that you have acted as a paid neutral/consultant in at least one matter involving Best, Best & Krieger as a client and counsel for parties in that matter. (*Las Posas Valley Water Rights Coalition v. Fox Canyon Groundwater Management Agency et al.*, pending in Santa Barbara Superior Court (Case No. VENC100509700).) We do not know of the extent of your involvement with Los Angeles County or Best, Best & Krieger in other matters, but we request notification your past or present involvement in any other such legal proceedings where you were paid.

To date, we have not received any notice of paid engagements involving parties or opposing counsel involved in JCCP 4408. Upon remand in this case, we have serious concerns about having a sitting bench officer have been paid or being paid for services by our opposing counsel in this matter. While we greatly appreciate and respect your service in this matter, the potential for bias as well as the appearance of impropriety is not acceptable to us on remand.

Some of our concerns are reflected in the California Code of Judicial Ethics. Canon 4D provides:

**D. Financial Activities**

- (1) A judge shall not engage in financial and business dealings that

Hon. Jack Komar (ret.)

August 31, 2021

Page 2

(a) may reasonably be perceived to exploit the judge's judicial position, or

(b) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to appear before the court on which the judge serves.<sup>1</sup>

There are numerous other Canons implicated, or potentially implicated, including 4F (Service as Arbitrator or Mediator), 4H (Compensation, Reimbursement, and Honoria), among others.

In deference to your notable career, and for the sake of moving the *Wood* matter to closure without further delay, we would greatly prefer not to litigate this matter. However, if you feel a formal hearing is necessary, we will file a noticed motion. We feel the more prudent course is for you to request the Judicial Council to reassign JCCP 4408.

Thank you for your attention to this matter.

Very truly yours,



Michael D. McLachlan

cc: Daniel M. O'Leary (*via electronic mail*)  
Chair, Judicial Council of California (*via U.S. Mail*)

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<sup>1</sup> The Advisory Committee Commentary for Canon 4D(1) reads, in part:

Participation by a judge in financial and business dealings is subject to the general prohibitions in Canon 4A against activities that tend to reflect adversely on impartiality,\* demean the judicial office, or interfere with the proper performance of judicial duties. Such participation is also subject to the general prohibition in Canon 2 against activities involving impropriety\* or the appearance of impropriety\* and the prohibition in Canon 2B against the misuse of the prestige of judicial office.

In addition, a judge must maintain high standards of conduct in all of the judge's activities, as set forth in Canon 1.