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7 Attorneys for Respondent
Ojai Valley Sanitary District

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF VENTURA

11 RICHARD H. VANE, Trustee of the Vane
Family Trust,

12 Petitioner,

13 v.

14 OJAI VALLEY SANITARY DISTRICT, a
15 public agency,

16 Respondent.

Case No.: 56-2022-000567385-CU-WM-VTA

**DECLARATION OF MISCHA N. BARTEAU
IN SUPPORT OF REPLY IN SUPPORT OF
DEMURRER TO VERIFIED PETITION
FOR WRIT OF ADMINISTRATIVE
MANDATE**

[Exempt from filing fees pursuant to
Government Code § 6103]

Date: September 28, 2022
Time: 8:30 AM
Dept: 40
Judge: Hon. Mark Borrell
Reservation No.: 2670133

Action Filed: June 29, 2022

1 DECLARATION OF MISCHA N. BARTEAU

2 I, Mischa N. Barteau, declare:

3 1. I am an attorney at law duly licensed to practice before the Courts of the State of
4 California and I am an associate of the law firm of ARNOLD LAROCHELLE MATHEWS VANCONAS &
5 ZIRBEL LLP, attorneys of record for Respondent Ojai Valley Sanitary District (“OVSD”). I am
6 familiar with the facts set forth in this Declaration and if called as a witness I would and could
7 competently testify thereto.

8 2. On September 16, 2022, I checked the Register of Actions on the Ventura County
9 Superior Court website for the case *Vane vs. Ojai Valley Sanitary District*, Case Number 56-2022-
10 00567385-CU-WM-VTA, and discovered that on September 14, 2022, an Opposition to OVSD’s
11 Demurrer (the “Opposition”) was filed by Richard H. Vane.

12 3. Neither Petitioner Richard H. Vane nor his counsel Nicholas D’Amico, served
13 Respondent OVSD with a copy of the Opposition filed on September 14, 2022.

14 4. On September 16, 2022, at 9:45 AM, I sent an email to Nicholas D’Amico, counsel of
15 record for Petitioner Richard H. Vane, and informed Mr. D’Amico that OVSD did not receive a
16 copy of the Opposition that was filed on September 14, 2022. A copy of the email is attached hereto
17 at **EXHIBIT A**. I received no response to my email.

18 5. On September 16, 2022, at 10:50 AM, I called Mr. D’Amico’s office and spoke with
19 “Sarah” and requested that someone at Mr. D’Amico’s office send me an electronic copy of the
20 Opposition right away because OVSD was not served a copy. Sarah told me she would give Mr.
21 D’Amico the message and took my phone number to confirm receipt of an electronic copy of the
22 Opposition. I did not receive any phone call or email from Mr. D’Amico’s office.

23 6. On September 19, 2022, my assistant Jacqueline Villareal placed two phone calls to
24 Mr. D’Amico’s office at approximately 9:47 AM and 10:06 AM, informing the person who
25 answered the phone that OVSD did not receive a copy of the Opposition and requesting a copy
26 thereof. Ms. Villareal informed me that she spoke to a receptionist twice and was advised that Mr.
27 D’Amico would be given the messages. Ms. Villareal provided contact information so that her
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1 phone calls could be returned. She received no response from Mr. D'Amico's office.

2 7. Because OVSD was not served with a copy of the Opposition and Petitioner's
3 counsel Mr. D'Amico refused repeated requests to provide OVSD with a copy, I requested that my
4 office obtain a copy of the Opposition directly from the Court. The earliest time that we could get an
5 appointment with the Clerk of the Court's office to obtain a copy of the Opposition was 1:45 PM on
6 Tuesday, September 20, 2022. This is the same day that OVSD's Reply is due and therefore counsel
7 for OVSD is unable to review Petitioner's Opposition before OVSD's Reply must be filed.

8
9 I declare under penalty of perjury under the laws of the State of California that the foregoing
10 is true and correct and that this declaration is executed on September 20, 2022, at Oxnard,
11 California.

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13 

14 Mischa N. Barteau, Declarant

EXHIBIT A

From: [Mischa Barteau](#)
To: nicholas@nldamicolaw.com
Cc: [Robert Kwong](#)
Subject: Vane v. Ojai Valley Sanitary District
Date: Friday, September 16, 2022 9:45:00 AM

Mr. D'Amico:

The court register of actions shows that an Opposition to the Demurrer was filed on 9/14/22.

We have not received a copy of what was filed, and it was due to us yesterday pursuant to Code of Civil Procedure § 1005.

Please send me an electronic copy of what was filed right away.

Mischa N. Barteau, Attorney at Law

A^{to}Z | ARNOLD LAROCHELLE MATHEWS
LAW | VANCONAS & ZIRBEL LLP

300 Esplanade Drive, Suite 2100 | Oxnard, CA 93036
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THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE U.S. POSTAL SERVICE. THANK YOU.

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF VENTURA


I am employed in the County of Ventura, State of California. I am over the age of 18 and am not a party to the within action; my business address is 300 Esplanade Drive, Suite 2100, Oxnard, CA.

On **September 20, 2022**, I served the foregoing document described as **DECLARATION OF MISCHA N. BARTEAU IN SUPPORT OF REPLY IN SUPPORT OF DEMURRER TO VERIFIED PETITION FOR WRIT OF ADMINISTRATIVE MANDATE** on interested parties in this action by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

- BY MAIL: As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Oxnard, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- BY OVERNIGHT COURIER: I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- BY FACSIMILE: I caused to be transmitted the document described herein via the fax number listed above. Upon completion of said facsimile transmission, the transmitting machine issued a transmission report showing the transmission was complete and without error.
- BY PERSONAL SERVICE: I delivered said document by hand to the addressee listed above.
- BY E-MAIL: I caused the document to be sent to the person at the e-mail address listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- (STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- (FEDERAL)** I declare under the laws of the United States of America that I am employed in the office of a member of the Bar of this court at whose direction the service was made and that the foregoing is true and correct.

Executed on September 20, 2022, at Oxnard, California.


Jacqueline Villarreal

SERVICE LIST

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Richard H. Vane, Trustee
of the Vane Family Trust
30 La Cumbra Street
Oak View, CA 93022

Nicholas L. D'Amico, Esq.
Attorney at Law
4500 Park Granada Street, Ste. 202
Calabasas, CA 91302-1666
Email: nicholas@nldamicolaw.com