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19 SUPERIOR COURT OF THE STATE OF CALIFORNIA
20 COUNTY OF CONTRA COSTA
21

22 COORDINATION PROCEEDING
SPECIAL TITLE (RULE 3.550)

Case No. JCCP 5031
CIVMS 5031

23 PARAQUAT CASES
24

**DECLARATION OF MICHAEL A.
KELLY IN SUPPORT OF ENTRY OF
PROPOSED AMENDED CASE
MANAGEMENT ORDER NO. 1
RE:ORGANIZATION OF
PLAINTIFFS'
COUNSEL/PLAINTIFFS'
LEADERSHIP AND [PROPOSED]
CASE MANAGEMENT ORDER NO. 2**

25 This document relates to:
All Coordinated Actions
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RE: PREFERENCE PROTOCOL

Judge: Hon. Edward G. Weil
Date: 9/30/21
Time: 9:00 am
Dept.: 39

**Assigned for All Purposes to:
Hon. Edward G. Weil, Dept. 39**

I, Michael A. Kelly, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am a shareholder in the firm of Walkup, Melodia, Kelly & Schoenberger, attorneys of record for Plaintiffs. I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would competently testify thereto. I make this declaration in support of the Entry of Proposed Amended Case Management Order No. 1 Re: Organization of Plaintiffs’ Counsel/Plaintiffs’ Leadership and [Proposed] Case Management Order No. 2 Re: Preference Protocol.

2. Many of the plaintiffs in this coordinated proceeding likely qualify for preference. The majority of the plaintiffs, including both filed and unfiled cases known to plaintiffs’ counsel, are over the age of 65. The reality of these cases is that there are many plaintiffs, as well as many potential plaintiffs, whose disease progression is unstable and who have a real and substantial danger of losing their ability to testify, or losing their ability to meaningfully utilize their compensation, if their trials are not prioritized.

3. Within the past two months, approximately twenty-five additional cases with various additional law firms have been filed and have been added or are pending coordination. Several more are anticipated.

4. On August 23, the Court held a case management conference. At that time, counsel for *Isaak* claimed the Walkup firm had a conflict of interest which prevented their service in leadership. The Court inquired regarding the basis for

1 such a claim and no evidence was presented to support the claim. Indeed, none
2 exists.

3 5. Proposed Leadership has suggested that one of *Isaak's* counsel, Steve
4 Brady, serve on the Preference Committee.

5 6. A true and correct copy of the Order Denying Without Prejudice Pamela
6 Fowler's Motion for Trial Preference in JCCP No. 4955, *North Bay Fire Cases*, filed
7 December 31, 2018 is attached hereto as Exhibit 1.

8 7. A true and correct copy of the Order on Several Motions for Trial
9 Preference in JCCP No. 5000, *Woolsey Fire Cases*, filed February 2, 2021 is attached
10 hereto as Exhibit 2.

11 8. A true and correct copy of the Ruling on Submitted Matter re Motion for
12 Trial Preference in JCCP No. 4965, *Southern California Fire Cases*, filed July 27,
13 2020 is attached hereto as Exhibit 3.

14 9. A true and correct copy of the Ruling on Motion for Trial Preference in
15 JCCP No. 4965, *Southern California Fire Cases*, filed May 7, 2019 is attached hereto
16 as Exhibit 4.

17 10. A true and correct copy of the Order on C.C.P. 36, Preference Motions on
18 Dublino, Stephens, Witcher, and Shamirzadi in JCCP No. 4953, *In re Roundup*
19 *Cases*, filed December 15, 2020 is attached hereto as Exhibit 5.

20 I declare under penalty of perjury under the laws of the State of California
21 that the foregoing is true and correct.

22 Executed on this 1st day of September 2021, at San Francisco, California.

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MICHAEL A. KELLY

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PROOF OF SERVICE
Coordination Proceeding Special Title (Rule 3.550) - Paraquat Cases
Case No. JCCP 5031, CIVMS 5031

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the county where the mailing took place. My business address is 650 California Street, 26th Floor, City and County of San Francisco, CA 94108-2615.

On the date set forth below, I caused to be served true copies of the following document(s) described as:

**DECLARATION OF MICHAEL A. KELLY IN SUPPORT OF ENTRY OF
PROPOSED AMENDED CASE MANAGEMENT ORDER NO. 1
RE: ORGANIZATION OF PLAINTIFFS' COUNSEL/PLAINTIFFS'
LEADERSHIP AND [PROPOSED] CASE MANAGEMENT ORDER NO. 2 RE:
PREFERENCE PROTOCOL**

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25 **BY ELECTRONIC SERVICE:** I electronically served the document(s)
26 described above via File & ServeXpress, on the recipients designated on the
Transaction Receipt located on the File & ServeXpress website
27 (<https://secure.fileandservexpress.com>) pursuant to the Court Order establishing the
case website and authorizing service of documents.

1 I declare under penalty of perjury under the laws of the State of California
2 that the foregoing is true and correct.

3 Executed on September 3, 2021, at San Francisco, California.

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7 Lily Connors

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