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11 In Pro Per Third Party Objector

12 **SUPERIOR COURT OF CALIFORNIA**

13 **COUNTY OF CONTRA COSTA**

14 ROBERT TIERNAN, et al.,

15 Plaintiffs,

16 v.

17 DIABLO COMMUNITY SERVICES  
18 DISTRICT, et al.,

19 Defendants.

Case No. MSC17-02529

**DECLARATION OF DR. JOHN  
HARVEY IN SUPPORT OF THIRD  
PARTIES DAVID HAMMOND AND  
HAL SEIBERT'S MOTION TO SET  
ASIDE STIPULATED JUDGMENT  
BETWEEN INTERVENORS AND U.S.  
BANK**

Date: 05/17/24  
Time: 9:00am  
Dept.: 18

22 AND RELATED CROSS-ACTION AND  
23 ACTION IN INTERVENTION

1 I, John Harvey, declare as follows:

2 1. I am currently a resident of the City of Berkeley, County of Alameda. I make this  
3 Declaration based on my own personal knowledge, and if called as a witness, could and would  
4 testify to the same.

5 2. I am familiar with a gravel trail approximately 100 to 125 feet in length connecting  
6 Alameda Diablo and Mount Diablo Scenic Boulevard (leading to Mount Diablo State Park's  
7 "South Gate" entrance ("the Easement"), which is at the southerly end of the property located at  
8 2354 Alameda Diablo, Diablo, California.

9 3. I have been a faculty member of the Athenian School since 2005, first as a resident  
10 faculty member and since 2013 as a non-resident member living in Berkeley. During my resident  
11 faculty years (2005 through 2012), I relied on the Easement for passage through Diablo Country  
12 Club to access downtown Danville by foot and bicycle. Since 2013, I have commuted daily from  
13 Walnut Creek BART to the Athenian school by bike and I rely on the safety of Diablo Streets and  
14 use the Easement to avoid the dangerous Diablo Road S curves.

15 4. The fifteen families of The Athenian School who care for the school's boarding  
16 students use Diablo streets and connectors, including the Easement, to cycle, jog, walk, and access  
17 Mount Diablo State Park. Resident Athenian students, some as young as 11 years old cross through  
18 Diablo Country Club to walk and ride their bicycles to school using this Easement and the Athenian  
19 gate connector to avoid the dangerous S curves of Diablo Road. The Athenian School's award-  
20 winning Cross-Country team relies on Diablo streets and connectors including the Easement to  
21 access their Mount Diablo training grounds.

22 5. The Athenian School opened in 1965 with less than 100 students and currently  
23 enrolls over 600. I have personally led many groups of students on hikes and bike trips on Mount  
24 Diablo trails and roads and I prefer using the Diablo streets and connectors including the Easement,  
25 to avoid the narrow, windy, Mount Diablo Scenic Blvd stretch from Athenian to the Park entrance.  
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 5, 2024 in Danville, California.



