

1 Kevin R. Brodehl (SBN 197657)
Zachary B. Young (SBN 288553)
2 Daniel J. Zarchy (SBN 306883)
PATTON SULLIVAN BRODEHL LLP
3 12647 Alcosta Boulevard, Suite 430
San Ramon, California 94583
4 925-600-1800 Phone
925-600-1802 Fax
5 kbrodehl@psblegal.com
zyoung@psblegal.com
6 dzarchy@psblegal.com

7 Attorneys for Third Party Objector
David Hammond

8 Hal F. Seibert (SBN 45925)
9 1355 Willow Way, Ste. 275
Concord, California 94520
10 925-602-2600 Phone

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 SHIRLEY OSMER
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, Shirley Osmer, declare as follows:

2 1. I am currently a resident of the unincorporated community of Diablo, County of
3 Contra Costa. I make this Declaration based on my own personal knowledge, and if called as a
4 witness, could and would 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. My husband and I first moved to Diablo in 1967. We then bought a lot on Alameda
10 Diablo, around 5 houses from the Easement, and in 1978 we built the house where I currently live.
11 Houses in Diablo are generally set back from the street so I have never been bothered by walkers
12 or cyclists on our Diablo streets. As a tennis player for many years, I never even remember using
13 the Easement or knowing of its existence until I began cycling in 2000 and rode my first Diablo
14 Challenge Race.

15 4. Once I started cycling, I began to use the Easement regularly on my rides up Mount
16 Diablo. I just completed last year's Diablo Challenge race last fall as an 87-year-old and I was
17 one of over 1,000 participants.

18 5. In the last 23 years the Easement has never been obstructed until the metal fence
19 was installed on September 28, 2023. In my opinion the Easement is the safest way to access
20 Mount Diablo on a bike. I am frustrated for all Easement users who have to find new, more
21 dangerous routes to Mount Diablo.

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct. Executed on Feb. 4, 2024 in Diablo, California.
24

25
26 
27
28 Shirley M. Osmer