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14 **SUPERIOR COURT OF CALIFORNIA**
15 **COUNTRY OF CONTRA COSTA**

16 ROBERT TIERNAN, et al,

17 Plaintiffs,

18 v.

19 DIABLO COMMUNITY SERVICES
20 DISTRICT, et al.,

Case No. MSC17-02529

**THIRD PARTY DAVID HAMMOND'S
OBJECTIONS TO INTERVENOR'S
EVIDENCE IN OPPOSITION TO
MOTION TO SET ASIDE
STIPULATED JUDGMENT BETWEEN
INTERVENORS AND U.S. BANK**

Date: May 31, 2024
Time: 9:00 a.m.
Dept.: 18
Judge: Hon. Danielle Douglas

21 AND RELATED CROSS-ACTION AND
22 ACTION IN INTERVENTION

1 Third Party Objector David Hammond submits the following objections to the evidence
2 submitted by the Intervenors in Opposition to the Motion to Set Aside Stipulated Judgment:

3 **OBJECTIONS TO EVIDENCE**

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<i>Material Objected to:</i>	<i>Grounds for Objection:</i>	<i>Ruling on Objection:</i>
5 6 7 1. Robert Tiernan 8 Declaration ¶ 4: “In the 9 1960’s and early 1970’s, 10 there was no vehicle 11 traffic of non-residents or 12 non-guests cutting 13 through Diablo. . . 14 Occasionally we would 15 also see landscapers, 16 contractors, vendors for 17 the country club and 18 delivery vehicles, but it 19 was a rare event to see 20 someone from the general 21 public with no business in 22 Diablo in the 23 community.”	Lack of foundation (Evid. Code §§350, 702).	Sustained: _____ Overruled: _____
24 2. Robert Tiernan 25 Declaration ¶ 4: “There 26 was <u>never</u> any bicycle 27 traffic through Diablo to 28 get up and down Mt.	Lack of foundation (Evid. Code §§350, 702).	Sustained: _____ Overruled: _____

<i>Material Objected to:</i>	<i>Grounds for Objection:</i>	<i>Ruling on Objection:</i>
Diablo during this period.”		
3. Robert Tiernan Declaration ¶ 5: “Signs indicating Diablo is ‘private’ have been posted since 1932[.]”	Lack of foundation (Evid. Code §§350, 702).	Sustained: _____ Overruled: _____
4. Robert Tiernan Declaration ¶ 5: “There was simply no widespread use of the Cut-Through prior to 1972, if there was any use at all.”	Lack of foundation (Evid. Code §§350, 702).	Sustained: _____ Overruled: _____
5. Tony Geisler Declaration ¶ 4: “On August 16, 2023, someone had workers cut down an approximately 10-foot portion of the stucco/concrete wall at 2354 Alameda Diablo. My understanding is that this was done illegally.”	Lack of foundation (Evid. Code §§350, 702).	Sustained: _____ Overruled: _____
6. Ray Brant Declaration ¶ 4: “At the same time they did this, they installed a	Lack of foundation (Evid. Code §§350, 702).	Sustained: _____ Overruled: _____

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<i>Material Objected to:</i>	<i>Grounds for Objection:</i>	<i>Ruling on Objection:</i>
row of hedges near the Cut-Through. This had the effect of creating an approximately 10-foot gap between the hedges on the US Bank property and the fence on the Wootens' property to the west.”		
7. Dominic Signorotti Declaration ¶ 12.	This declaration cites to Exhibit 18 of the Intervenors' Evidence Index. However, Exhibit 18 is missing from the Evidence Index and the documents corresponding to this declaration paragraph appear to be mislabeled as Exhibit 19.	
8. Request for Judicial Notice ¶ 13.	This paragraph cites to Exhibit 19 of the Intervenors' Evidence Index. However, after Exhibit 18 (which is missing), all exhibits appear to be mislabeled. As a result, the documents corresponding with this paragraph appear to be mislabeled as Exhibit 20.	

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<i>Material Objected to:</i>	<i>Grounds for Objection:</i>	<i>Ruling on Objection:</i>
9. Request for Judicial Notice ¶ 14.	This paragraph states that a true and correct copy of this document is attached as Exhibit 22 to the Opposition. However, no documents are attached to the Opposition. The Intervenors' Evidence Index also does not have an Exhibit 22. The referenced Minute Order appears to have been inadvertently included with the prior Exhibit 21.	

Dated: May 23, 2024

PATTON SULLIVAN BRODEHL LLP

By: 
DANIEL J. ZARCHY

Attorneys for Third-Party David Hammond

1 **Robert Tiernan, et al v. Diablo Community Services District; et al.**

2 Contra Costa County Superior Court No. MSC17-02529

3 **PROOF OF SERVICE**

4 I, Jennifer Ann Harvey, declare:

5 I am over 18 years of age and not a party to this action. My business address is Patton
6 Sullivan Brodehl LLP, 12647 Alcosta Blvd., Suite 430, San Ramon, California 94583. On the
7 date set forth below, I served the within:

8 **THIRD-PARTY DAVID HAMMOND’S OBJECTIONS TO INTERVENOR’S
9 EVIDENCE IN OPPOSITION TO MOTION TO SET ASIDE STIPULATED
10 JUDGMENT BETWEEN INTERVENORS AND U.S. BANK**

11 on the parties in this action as listed below:

12 Dominic V. Signorotti, Esq.
13 McKenna, Brink, Signorotti LLP
14 1350 Treat Blvd, Ste 105
15 Walnut Creek, CA 94597

*Attorneys for Intervenors
16 Jeff Mini, Christine
17 Mini, et al.*

18 Email: dominic@mckennabrink.com
19 service@mckennabrink.com

20 Accepting Service on behalf of Bart Wooten

21 Melissa Robbins Coutss, Esq.
22 Crystal R. Davieau, Esq.
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24 2763 Camino Del Rio S, Suite 100
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Defendant
U.S. Bank National Association, as Trustee
for Master Adjustable Rate Mortgages Trust
2007-2 Mortgage Pass-Through Certificates,
Series 2007-2

[X] (By Email) Based on a court order or an agreement of the parties to accept service by
electronic transmission, I caused the documents to be sent to the persons at the electronic
notification addresses listed above.

I declare under penalty of perjury that the foregoing is true and correct and that this
declaration was executed on May 23, 2024 at San Ramon, California.

JENNIFER ANN HARVEY