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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
OBJECTION AND MOTION TO
STRIKE INTERVENORS' OVER-
SIZED 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 David Hammond objects to the over-sized Memorandum of Points and
2 Authorities In Opposition to Motion to Set Aside Stipulated Judgment Between Intervenor and
3 U.S. Bank filed by the Intervenor on the basis that it violates the California Rules of Court and
4 was filed without leave of Court.

5 The Opposition violates Rule 3.1113(d), which limits opposition briefs to 15 pages,
6 except for summary judgment motions, and Rule 3.1113(f), which requires a table of contents
7 and table of authorities for any brief that exceeds 10 pages. The Opposition is 17 pages, not
8 including the title page. It does not include a table of contents or a table of authorities.
9 Intervenor did not seek, and did not obtain, leave of Court to file the brief without compliance
10 with the Rules.

11 Violation of the Rules of Court as it relates to brief formatting has become routine for
12 Intervenor's counsel in this action and the related 2023 Action. The January 2024 brief in
13 opposition to the initial Motion to Set Aside Stipulated Judgment was 14 pages but failed to
14 include a table of contents or table of authorities. In the related 2023 action, the opposition filed
15 by Bart Wooten (same counsel as for Intervenor) to Hammond's and Seibert's Motion for
16 Preliminary Injunction was 16 pages and lacked a table of contents and table of authorities.

17 For these reasons, Hammond moves to strike the Opposition pursuant to Rule of Court
18 8.204(e)(2)(B), which permits the Court, on its own or a party's motion, to strike the brief with
19 leave to file a compliant brief within a specified time. Should Intervenor attempt any
20 shenanigans with respect to their newly filed compliant brief (e.g., including new material that
21 was not included in the present brief), moving parties should be given the opportunity to reply to
22 such new material. The Rules of Court exist for a reason, and counsel's flagrant and consistent
23 disregard for such rules justify admonishment from the Court.

24 Dated: May 23, 2024

PATTON SULLIVAN BRODEHL LLP

25
26 By: 
27 DANIEL J. ZARCHY
28 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 OBJECTION AND MOTION TO STRIKE
9 INTERVENORS’ OVER-SIZED OPPOSITION TO MOTION TO SET ASIDE
10 STIPULATED 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.
23 McCarthy & Holthus, LLP
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