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[Exempt from filing fees per Government  
Code §6103]

7 Attorneys for Defendants John Tos, Aaron Fukuda, and County of Kings

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SACRAMENTO**

10 HIGH-SPEED RAIL AUTHORITY AND  
11 HIGH-SPEED PASSENGER TRAIN  
12 FINANCE COMMITTEE, for the STATE OF  
CALIFORNIA

13 Plaintiffs

14 vs.

15 ALL PERSONS INTERESTED IN THE  
16 MATTER OF THE VALIDITY OF THE  
17 AUTHORIZATION AND ISSUANCE OF  
18 GENERAL OBLIGATION BONDS TO BE  
ISSUED PURSUANT TO THE SAFE,  
19 RELIABLE HIGH-SPEED PASSENGER  
TRAIN BOND ACT FOR THE 21<sup>ST</sup>  
CENTURY AND CERTAIN PROCEEDINGS  
AND MATTERS RELATED THERETO,,

Defendants

No. 34-2013-00140689 filed March 19, 2013

Assigned for all purposes to Department 31,  
Hon. Michael P. Kenny

DECLARATION OF STUART M.  
FLASHMAN IN OPPOSITION TO  
VALIDATION COMPLAINT OF  
CALIFORNIA HIGH-SPEED RAIL  
AUTHORITY ET AL.

Date: September 27, 2013

Time: 9:00 AM

Dept. 31

Trial Date: September 27, 2013

I, Stuart M. Flashman, hereby declare as follows:

1. I am an attorney licensed to practice in the State of California. I am one of the attorneys representing Defendants John Tos, Aaron Fukuda, and the County of Kings in this case. I also represent those same parties as plaintiffs in the case *Tos et al. v. California High-Speed Rail Authority et al.* I have personal knowledge of the facts presented in this declaration and would be competent to testify to them if called as a witness.

2. On March 15, 2013, in anticipation of the California High-Speed Passenger Train Finance Committee's noticed meeting for March 18, 2013. I sent a letter to the Honorable Bill

1 Lockyer, California State Treasurer, in his role a chairman of that committee, as well as to other  
2 officials involved with the committee. Given the shortness of time, I sent the letter electronically  
3 as an e-mail attachment. I received an e-mail receipt indicating that the e-mail had been  
4 successfully received and opened. A true and correct copy of that letter is attached hereto as  
5 Exhibit A.

6 3. The purpose of the letter was to alert Mr. Lockyer, in his role as chair of the committee,  
7 to the ongoing litigation involving my clients John Tos *et al.* and the California High-Speed Rail  
8 Authority, and specifically of the upcoming hearing in that case. In the letter, I pointed out that  
9 the hearing could result in a court ruling prohibiting the expenditure of Proposition 1A bond  
10 funds on the high-speed rail project as currently constituted. I therefore suggested to him that  
11 the prudent course for the committee was to defer acting on authorizing issuing Proposition 1A  
12 bonds until the court had reached a decision as to whether expenditure of bond proceeds on the  
13 current project was legal.

14 I declare under penalty of perjury under the laws of the State of California that the above  
15 statements are true and correct and that this declaration was executed on August 22, 2013 in  
16 Oakland, California.

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# **Exhibit A**

Law Offices of  
**Stuart M. Flashman**  
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Sent via electronic mail

March 15, 2013

California State Treasurer  
Bill Lockyer  
P.O. Box 942809  
Sacramento, CA 94209-0001

RE: Monday, March 18<sup>th</sup> Meeting of High-Speed Passenger Train  
Finance Committee

Dear Treasurer Lockyer,

I am one of the attorneys for the plaintiffs in the case *Jon Tos et al. v. California High-Speed Rail Authority et al.*, Sacramento County Superior Court case #34-2011-00113919. I am writing to you in regard to the above-referenced meeting of the High-Speed Passenger Train Finance Committee.

As you may know, my clients, Jon Tos *et al*, have sued the Authority and various state officials, including yourself, challenging the decisions of the Authority and others to approve a funding plan and move forward on appropriating and spending bond funds authorized by the voters of California under Proposition 1A on a project to build what the Authority terms an Initial Construction Segment of the California High-Speed Rail System. The lawsuit contends that neither the Funding Plan nor the Initial Construction Segment satisfy the legal requirements to allow the use of Proposition 1A bond funds.

I have just filed the opening brief on a motion requesting the court to issue a writ of mandate ordering the Authority to rescind its approval of that funding plan. The motion also asks the court to order rescission of all actions taken in reliance on the improperly-approved funding plan, including the legislative appropriation of bond funds. A copy of that brief is attached.

The motion for writ of mandate is set to be heard on Friday, May 31<sup>st</sup>. If the court grants the motion and orders rescission of the Funding Plan approval, there will be no project available on which to expend Proposition 1A bond funds. Further, it may be several years until the Authority is able to submit a legally sufficient and compliant Funding Plan for the use of bond funds. Consequently, my clients believe it would be imprudent for the Committee to approve issuance of bonds authorized under Proposition 1A until the court has ruled on that motion.

If you have further questions, please do not hesitate to call me for further information.

Sincerely,



Stuart M. Flashman

Att: Opening Brief on Motion for Writ of Mandate  
cc: Attorney General Kamala Harris (without attachment)