

1 MICHAEL J. BRADY (SBN 40693)
1001 Marshall Street, Ste. 500
Redwood City, CA 94063-2052
2 Telephone (650) 364-8200
Facsimile: (650) 780-1701
3 Email: mbrady@rmkb.com

4 LAW OFFICES OF STUART M. FLASHMAN
STUART M. FLASHMAN (SBN 148396)
5 5626 Ocean View Drive
Oakland, CA 94618-1533
6 TEL/FAX (510) 652-5373
Email: stu@stuflash.com

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7 Attorneys for Plaintiffs
8 JOHN TOS; AARON FUKUDA;
AND COUNTY OF KINGS
9

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

11 JOHN TOS, AARON FUKUDA, and COUNTY
12 OF KINGS,

Plaintiffs

13 v.

14 CALIFORNIA HIGH SPEED RAIL
15 AUTHORITY *et al.*,
Defendants

No. 34-2011-00113919 filed 11/14/2011
Judge Assigned for All Purposes:
HONORABLE MICHAEL P. KENNY
Department: 31

OFFER OF PROOF

Date: February 11, 2016
Time: 9:00 AM
Dept. 31
Judge: Hon. Michael P. Kenny
Trial Date: February 11, 2016

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18 Plaintiffs John Tos, Aaron Fukuda, and County of Kings make the following offer of
19 proof in support of evidence that the trial court has erroneously excluded:
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21 1. The following declarations, all of which were submitted to the trial court in 2013, but
22 were excluded from evidence on the basis that the case was to be decided solely based on an
23 administrative record, from which the declarations were excluded:

- 24 • Declaration of Quentin L. Kopp
- 25 • Declaration of Paul S. Jones
- 26 • Supplemental Declaration of Paul S. Jones
- 27 • Declaration of William H. Warren

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- Supplemental Declaration of William L. Warren
- Declaration of Wendell Cox
- Declaration of William C. Grindley
- Declaration of Richard F. Tolmach
- Declaration of Randal O’Toole
- Declaration of Adrian Moore
- Declaration of James Elliott Moore II
- Declaration of Michael G. Brownrigg
- Declaration of Robert W. Poole, Jr.
- Declaration of James Mills
- Supplemental Declaration of Michael G. Brownrigg
- Declaration of William H. Warren re: Plaintiffs’ Remedies Closing Brief
- Declaration of Dr. Paul F. Jones in Support of Plaintiffs’ Motion for Mandamus, Injunctive, and Declaratory Relief

2. In addition to the above declarations, the following individuals were proposed to provide expert witness testimony, all of which was excluded:

- Quentin L. Kopp
- William H. Warren
- Paul S. Jones
- William C. Grindley

The above declarations and proposed witness testimony would have addressed the following issues:

1. The propriety of the Blended System (Kopp, Mills)
- 2) The inability to meet required travel time (Jones, Tolmach)

1 3) The failure of the system to meet the financial viability requirement (Warren,
2 Grindley, Cox, O'Toole, A. Moore. Brownrigg, J.E. Moore II., Poole, Cox).

3 The details of the evidence that would have been provided in oral testimony are set forth
4 in the declarations that have been filed in this Court, but disallowed as evidence in the "Part II"
5 briefing now underway.

6 Dated: November 2, 2015

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8 STUART M. FLASHMAN
9 *Attorney for Plaintiffs John Tos et al.*

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