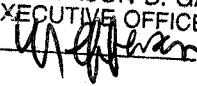


FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF NEVADA
MAR 21 2019
JASON B. GALKIN
EXECUTIVE OFFICER & CLERK
By:  Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF NEVADA

FRIENDS OF BANNER MOUNTAIN,

Plaintiff,

v.

JONATHAN M. DAVIS, an individual;
JACY C. DAVIS, an individual; and
DOES 1-20, inclusive

Defendants.

Case No.: CU17-082504

**STIPULATED JUDGMENT
(Non-Monetary)**

JONATHAN M. DAVIS and JACY C. DAVIS stipulate to judgment entered against them as follows:

1. JONATHAN M. DAVIS and JACY C. DAVIS are the owners of record of that certain real property located at 14623 Gracie Road, Nevada City, California, 95959, situated in Nevada County, California, APN: 37-280-51-000, as described in Exhibit "A" attached and incorporated herein by this reference (the Davis Property).

2. The public has a non-exclusive easement established prior to March 4, 1972, for recreational purposes only (Public Easement), as further described herein across the Davis Property. The Public Easement is in the location of the Cascade Canal and includes its northerly

1 berm. The "berm" shall be defined as the top of the mound immediately adjacent to the
2 irrigation ditch upon which foot-traffic could reasonably be expected. The width of the Public
3 Easement shall measure three feet, more or less, from each side of the centerline of the top of the
4 northerly berm; provided however, where the width of the berm itself is less than six feet, the
5 Public Easement shall be construed to comprise such lesser width of the berm in its entirety. The
6 Public Easement allows for nonmotorized right-of-away and recreational uses by the public for
7 walking, jogging, riding bicycles, and fishing in the Cascade Canal.

8 3. Except as otherwise provided herein, JONATHAN M. DAVIS and JACY C.
9 DAVIS, and their successors and assigns shall be permanently enjoined from erecting or
10 maintaining gates or any other impediment(s) blocking or obstructing the Public Easement, and
11 from erecting any signage on the Public Easement.

12 4. On or before April 2, 2019, JONATHAN M. DAVIS and JACY C. DAVIS shall
13 disassemble and remove the gate which presently blocks public access to the Cascade Canal
14 Trail in the vicinity of the northeasterly section of the Davis Property.

15 5. On or before April 2, 2019, JONATHAN M. DAVIS and JACY C. DAVIS shall
16 disassemble and remove the gate which presently blocks public access to the Cascade Canal
17 Trail in the vicinity of the westerly section of the Davis Property, unless JONATHAN M.
18 DAVIS and JACY C. DAVIS modify their gate on the westerly section of the Davis Property on
19 the Cascade Canal Trail subject to the following conditions: (i) the gate shall remain unlocked;
20 and (ii) the gate shall be designed and constructed in the same fashion and of the same materials
21 as the currently existing gate located there, except that any new or reconfigured gate shall be
22 self-closing by utilization of a mechanism not requiring more than 10 pounds of pressure to
23 open the gate, which shall swing from a hinge inwards towards the Cascade Canal Trail; and
24 (iii) the swinging gate shall be no less than 48 inches in width; and (iv) the entire gate shall
25 allow for reasonable visualization of the Cascade Canal Trail, in the same manner as the
26 existing gate; and (v) any such modified or existing gate and supporting structure shall include
27 only one sign (no ^{larger} ~~smaller~~ than 13 inches by 19 inches) securely affixed to the swinging portion
28 of the gate which shall prominently and legibly state:



CASCADE CANAL TRAIL

OPEN TO THE PUBLIC

PLEASE STAY ON THE TRAIL AND RESPECT LANDOWNERS' PRIVACY

The landowner requests that the first 800 feet of the trail be used only during daylight hours

6. Each side shall bear their own attorney fees and costs incurred to date relating to the above entitled matter except as set forth below.

7. In the event JONATHAN M. DAVIS and/or JACY C. DAVIS or their successors, heirs, or assigns file a lawsuit alleging that the public has in any manner overburdened the Public Easement as set forth herein, JONATHAN M. DAVIS and JACY C. DAVIS and their successor, heirs, or assigns acknowledge that a substantial benefit has been conferred upon the public by this stipulated judgment, and such acknowledgment is admissible in any subsequent proceeding, and will be a proper subject of consideration by a court of competent jurisdiction in determining the right to attorney fees under Code Civ. Proc. section 1021.5.

8. This stipulated judgement is immediately binding on JONATHAN M. DAVIS and JACY C. DAVIS and their successors, heirs, and assigns, and shall be recorded in the official books and records of Nevada County, California.

Date: March 21, 2019



JONATHAN M. DAVIS

Date: March 21, 2019


JACY C. DAVIS

IT IS SO ORDERED, ADJUDGED AND DECREED:

Date: March 20, 2019


Judge of the Superior Court

LEGAL DESCRIPTION

Real property in the unincorporated area of the County of Nevada, State of California, described as follows:

Parcel 1, as shown on Parcel Map 80-16 recorded August 20, 1981, in Book 15 of Parcel Maps, at Page 106, in the office of the Nevada County Recorder, State of California.

EXCEPTING THEREFROM all portions of said real property situate more than 100 feet below the surface thereof, together with the right to work and mine said property below said depth and remove minerals therefrom without disturbing the surface thereof.

APN: 37-280-51