

Superior Court of California, Contra Costa County

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MINUTE ORDER

TIERNAN VS. DIABLO COMMUNITY SERVS

MSC17-02529

HEARING DATE: 06/21/2024

PROCEEDINGS: *HEARING ON MOTION IN RE: SET ASIDE STIPULATED JUDGMENT BETWEEN INTERVENORS AND US BANK

DEPARTMENT 18

CLERK: ELLEN ROMERO

JUDICIAL OFFICER: DANIELLE K DOUGLAS

COURT REPORTER: NOT REPORTED

JOURNAL ENTRIES:

No appearances by either party.

There being no opposition to the tentative ruling, the tentative is the order of the courts as follows:

Before the Court is a motion to set aside the stipulated judgment between the Intervenor, defined below, and defendant U.S. Bank entered by the Court on November 3, 2023. The motion is filed by non-parties David Hammond and Hal F. Seibert ("Moving Parties"). For the reasons set forth, the motion is **granted**, and the Court orders this action **stayed** pending further order of the Court, or disposition of the Hammond Case, defined below.

I. Background

This case arises out of disputes among residents of the community of Diablo and others who want to access Mr. Diablo through portions of the community.

A. The Pleadings

Earlier in the case, a former resident of Diablo, Winston Cervantes, filed a first amended cross-complaint against Diablo Community Services District and two other residents, Omid Bahrami and Mojdeh Salehomoum, who owned the residential property located at 2354 Alameda Diablo ("Bahrami Property") which included a disputed path identified as the "Cut-Through." Cervantes alleged that there was a public easement over the Bahrami Property which allowed the public to use the Cut-Through based on a subdivision map recorded in 1979. Cervantes subsequently voluntarily dismissed his cross-complaint without prejudice on February 28, 2023. (Moving Parties ("MP") RJN Exh. H.)

With leave of Court, a number of other residents of Diablo filed a complaint-in-intervention and later a first amended complaint in intervention ("FACII ") naming as lead intervenor Jeff Mini ("Intervenor") and naming as defendants in the FACII

Superior Court of California, Contra Costa County

Department 18
925-608-1000
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K. Bieker
Court Executive Officer

Cervantes, Bahrami, Salehomoum and Bart Wooten as Trustee of the 1998 Frederick and Jane M. Wooten Revocable Trust U/D/D ("Wooten"), alleged to be the owner of 2328 Alameda Diablo ("Wooten Property"). (MP RJN Exh. B.) Cervantes was subsequently dismissed from the FACII without prejudice on March 8, 2023. (MP RJN Exh. I.) On June 13, 2023, Intervenors added U.S. Bank National Association as Trustee for Master Adjustable Rate Mortgages Trust 2007-2 Mortgage Pass-Through Certificates Series, 2007-2 ("U.S. Bank") by Roe amendment as a defendant in the FACII, according to the register of actions.

In the FACII, Intervenors sought a declaration that (1) the proposed public easement offered in a dedication to the State Department of Parks and Recreation in the 1979 subdivision map MS 263-78-was never accepted and that there is no public easement for the Cut-Through as a result, or (2) alternatively, that any public easement is limited in scope to horseback riding and hiking by the terms of the offer of dedication in the 1979 subdivision map. [FACII ¶¶ 36-41.] The Bahrami Property was subject to a deed of trust in favor of U.S. Bank. U.S. Bank foreclosed on its deed of trust and became the record title holder of the Bahrami Property (for convenience, now referred to as the "U.S. Bank Property").

B. The Stipulated Judgments

In the second half of 2023, the Court entered two separate judgments resolving the Complaint in Intervention. (MP RJN Exhs. K and O.) Intervenors and Wooten stipulated to a judgment which addresses the "Cut-Through" to the extent the path crosses over the Wooten Property, comprised of three undeveloped lots in Diablo next to the U.S. Bank Property. The Wooten Stipulated Judgment obligates Wooten to maintain a fence or wall on the Wooten Property next to the U.S. Bank Property. Moving Parties do not challenge the Wooten Stipulated Judgment. (MP RJN Exh. K.)

On November 3, 2023, the Court entered a stipulated judgment between Intervenors and U.S. Bank ("U.S. Bank Stipulated Judgment"). (MP RJN Exh. O.) Among other things, the U.S. Bank Stipulated Judgment provides for (a) entry of judgment in favor of Intervenors on their declaratory relief cause of action; (b) U.S. Bank and successor owners of the U.S. Bank Property to maintain a six-foot high barrier, such as a concrete or metal fence, "to prevent members of the public from travelling over any portion" of the property and specifically to prevent the property "from being used by the general public to travel between Mt. Diablo Scenic Blvd. and Alameda Diablo Road"; (c) the judgment to be recorded in the Official Records of Contra Costa County; and (d) the obligations of U.S. Bank and its successor owners to run with the land. (11/3/2023 U.S. Bank Stip. Judg. ¶¶ 3, 4, 6.) U.S. Bank has subsequently conveyed the U.S. Bank Property to third

Superior Court of California, Contra Costa County

Department 18
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

parties De Ette Richmond Sipos individually (73.75%) and DeEtte R. Sipos as Trustee of The DeEtte R. Sipos Trust under the EHR QPRT dated 3/26/2003 (26.25%) (collectively "Sipos"). (MP RJN Exh. P; Intervenor ("IV") RJN Exh. 20.)

C. Moving Parties' Complaint and Motion to Set Aside

Hammond and Seibert commenced a separate action for quiet title, declaratory relief, and interference with easement against U.S. Bank and Wooten on October 11, 2023, Case No. MSC23-02578 (the "Hammond Case"). That litigation is pending and includes, among other claims, a cause of action for quiet title and related relief seeking to establish that there is a public easement over the Cut-Through on the U.S. Bank Property.

Moving parties filed their motion to set aside the U.S. Bank Stipulated Judgment on November 15, 2023 in this case. The Court denied the motion without prejudice to re-filing. (2/2/2024 Tent. Rul.) Hammond and Seibert refiled their motion to set aside on February 9, 2024. Only Intervenor have opposed the motion; U.S. Bank has not.

D. Requests for Judicial Notice

The Court grants all parties' requests for judicial notice of recorded documents and government records which have been sufficiently authenticated by custodian of records declarations, subject to the limitations on judicial notice to the extent the truth of the content or its interpretation is disputable. (Evid. Code §§ 452(c) [government records]; *Yvanova v. New Century Mortgage Corp.* (2016) 62 Cal.4th 919, 924, fn. 1 ["The existence and facial contents of these recorded documents were properly noticed in the trial court under Evidence Code sections 452, subdivisions (c) and (h), and 453. [Citation omitted]. . . . We therefore take notice of their existence and contents, though not of disputed or disputable facts stated therein. [Citations omitted]."]) (MP RJN Exhs. A, L, M, N, P; IV RJN Exhs. 4, 5, 6, 7, 9, 10, 20 [misstated as 19 in RJN].)

The parties have also requested judicial notice of court filings in this case and in the related Hammond Case. The Court grants the requests for judicial notice only as to some of the court filings, and only to the extent that the Court takes judicial notice of the existence of the filings, but not the truth or proper interpretation of the content to the extent reasonably disputable. (*StorMedia Inc. v. Superior Court* (1999) 20 Cal.4th 449, 457, fn. 9 [judicial notice of existence of document, but not truth of its content where truth or interpretation is disputable].) (MP RJN Exhs. B, C, D, E, F, G, H, I, J, K, O; MP Reply RJN Exh. A; IV RJN Exhs. 11, 22 [no exhibit slip sheet, same as MP Reply RJN Exh. A].)

The Court **denies** Intervenor's request for judicial notice of the declarations previously

Superior Court of California, Contra Costa County

Department 18
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

filed in the case by Tiernan, Fairman, Steffens, Worden, and McAllister, IV RJN Edhs. 12-16, as the Court cannot take judicial notice of the truth of the content of the declarations filed in connection with a different motion, and the declarations are irrelevant if they are not accepted by the Court for the truth of their content. (See *South Lake Tahoe Property Owners Group v. City of South Lake Tahoe* (2023) 92 Cal.App.5th 735, 752; *Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort* (2001) 91 Cal.App.4th 875, 882.) In *South Lake Tahoe Property Owners Group, supra*, the Court of Appeal affirmed the trial court order granting summary judgment on defendant's cross-motion for summary judgment in part based on lack of opposing evidence sufficient to raise a triable issue of fact because the trial court properly denied plaintiff's request for judicial notice of declarations filed by plaintiff in support of plaintiff's cross-motion for summary judgment. The Court stated, "The declarations could present triable issues only if they were admitted for the truth of the factual matters they stated. It is the allegations contained in the declaration that are subject to dispute, not the declaration's existence. The mere existence of a declaration in the court files, which is all the court could judicially notice, does not establish a triable issue of material fact." (*Id.* at 751 [emphasis added].) The Court explained that it did not matter that the opposing party did not object to the request for judicial notice: "The City's lack of an objection is irrelevant when it is plaintiff who claims the trial court erred. And although the trial court, after denying the judicial notice request, assumed for the sake of argument that all the declarations were properly before it, it still determined the declarations did not raise a triable issue of material fact. Because the trial court's ruling excluding the evidence was based on the denial of judicial notice, we need go no further to affirm that ruling." (*Id.* [emphasis added].) (See *also* 2/2/2024 Tent. Rul.) The fact the Moving Parties did not object to the Intervenor's request for judicial notice of these five declarations is irrelevant, as the Court found in *South Lake Tahoe Property Owners Group, supra*.

E. Procedural Objection to Opposition Memorandum

Intervenor's filed a memorandum of points and authorities in opposition to the motion that exceeds 10 pages without including a table of contents and authorities and the memorandum exceeds the 15-page limit. (Cal. R. Ct. 3.1113(d) and (f).) An oversized brief is considered in the same manner as a late-filed paper, such that the Court has discretion to consider the filing notwithstanding its noncompliance with the rules. (Cal. R. Ct. 3.1113(g); *Rancho Mirage Country Club Homeowners Assn. v. Hazelbaker* (2016) 2 Cal.App.5th 252, 262 [trial court has discretion to accept or reject late filed papers].) The Court considers the opposition, but **expects compliance** with the Court Rules in future filings. Failure to comply may result in the Court refusing to consider the noncompliant pleading, sanctions or other appropriate orders.

Superior Court of California, Contra Costa County

Department 18
925-608-1000
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K. Bieker
Court Executive Officer

F. Preliminary Issue – Moving Parties' Standing

" '[A] nonparty that is aggrieved by a judgment or order may become a party of record and obtain a right to appeal by moving to vacate the judgment.' [Citation omitted.] 'A motion to vacate in the trial court provides a means by which such a nonparty may become a party to the litigation with a right of appeal without the need to formally intervene in the action.' [Citation omitted.]" (*Doe v. Regents of University of California* (2022) 80 Cal.App.5th 282, 293.) (See also *Henry M. Lee Law Corp. v. Superior Court* (2012) 204 Cal.App.4th 1375, 1382 [same, applying rule in connection with award of attorneys' fees in a judgment which the Court concluded was legally erroneous].) Intervenor do not dispute the Moving Parties are allegedly aggrieved and do not contest their standing.

The Moving Parties assert that the U.S. Bank Stipulated Judgment in effect has denied them and members of the general public the ability to use the Cut-Through for bicycle riding and other activities by blocking a public easement. The motion is supported by declarations by Hammond and Seibert as the Moving Parties, other Diablo residents, and members of other communities who state they regularly used the Cut-Through prior to the U.S. Bank Stipulated Judgment. It is undisputed that members of the public used the Cut-Through over the U.S. Bank Property, as reflected in the allegations of the FACII and Intervenor's Statement of Position previously filed in this case. (MP RJN Exhs. B [FACII ¶¶ 25, 34] and E [acknowledging members of the public have an interest in the outcome of the litigation and the Intervenor named Cervantes in the FACII].) The FACII alleges extensive public use of the Cut-Through over a period of years, as the U.S. Bank Stipulated Judgment acknowledges. (U.S. Bank Stip. Judg. ¶ 9 [p. 3, ll. 5-13]; FACII ¶¶ 25, 34.) The U.S. Bank Stipulated Judgment by its terms requires U.S. Bank to block public access to the Cut-Through on its property. (U.S. Bank Stip. Judg. ¶¶ 4, 6 [p. 4, ll. 3-8 and 12-15].) Moving Parties' declarations sufficiently demonstrate they are adversely affected by the U.S. Bank Stipulated Judgment to give them standing to seek to vacate it.

G. Grounds Asserted for Vacating the U.S. Bank Stipulated Judgment and Analysis

Moving parties cite four grounds or doctrines which they contend mandate that the Court set aside the U.S. Bank Stipulated Judgment because the judgment injures the rights of Moving Parties and other third parties who were not before the Court and whose rights and interests were not represented: (1) the indispensable party doctrine that moving parties argue requires a judgment that injures a third party's rights to be set aside (see Code Civ. Proc. § 389 and *Thomson v. Talbert Drainage Dist.* (1959) 168

Superior Court of California, Contra Costa County

Department 18
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

Cal.App.2d 687, 688-690 and other authorities); (2) due process requirements and the right to notice under California Constitution Article 1 § 7, *Villarruel v. Aereola* (1977) 66 Cal.App.3d 309, 317, and other authorities; (3) the Court's "inherent equitable authority" as set forth in *Luckenbach, supra*, 190 Cal. at 398, *Henry M. Lee Law Corp., supra*, 204 Cal.App.4th at 1382, *Babbitt v. Babbitt* (1955) 44 Cal.2d 289, 293, and other authorities; and (4) the doctrine that a quiet title judgment is void where there is a lack of a justiciable controversy (see *Pattera v. Hansen* (2021) 64 Cal.App.5th 507, 532, *Ranch at the Falls LLC v. O'Neal* (2019) 38 Cal.App.5th 155, 172-180, and other authorities). (Mot. pp. 1-2.) The Court addresses only the grounds the Court finds warrant setting aside the U.S. Bank Stipulated Judgment.

A. Indispensable Parties

Intervenors contend that Moving Parties or other users of the Cut-Through were proper but not indispensable parties. (Opp. p. 12, ll. 14-18.) An indispensable party is one whose rights are necessarily affected by the judgment. (*Ranch at the Falls LLC v. Superior Court* (2019) 38 Cal.App.5th 155, 173.) Under Code of Civil Procedure section 389(a), a person shall be joined as a party to the action if "he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest." (Code Civ. Proc. § 389(a)(2).) Moving Parties meet these criteria.

The U.S. Bank Stipulated Judgment is in effect a contract, and a contract cannot bind nonparties. (*Chacon v. Litke* (2010) 181 Cal.App.4th 1234, 1252 [stipulated judgment or order is treated and interpreted as a contract]; *Berglund v. Arthroscopic & Laser Surgery Center of San Diego, L.P.* (2008) 44 Cal.4th 528, 536 [contract is not binding on a nonparty and cannot be enforced against a nonparty].) If a party who meets one or more of the criteria in Code of Civil Procedure section 389(a) is not, or cannot be, joined, the Court has the power to proceed with the action without the joinder of a party considered indispensable. (Code Civ. Proc. § 389(b).) The Court evaluates four factors under Code of Civil Procedure section 389(b) to decide whether to proceed with an action without an indispensable party or dismiss the case: "(1) to what extent a judgment rendered in the person's absence might be prejudicial to him or those already parties; (2) the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; (3) whether a judgment rendered in the person's absence will be adequate; (4) whether the plaintiff or cross-complainant will have an adequate remedy if the action is dismissed for nonjoinder." (Code Civ. Proc. § 389(b).) That the Court may have the power to enter a

Superior Court of California, Contra Costa County

Department 18
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

judgment binding on the parties to the action even when an indispensable party is not joined and that the indispensable party not joined in the action may not be bound by the judgment (see *Kraus v. Willow Park Public Golf Course* (1977) 73 Cal.App.3d 354, 364, Doe, supra, 80 Cal.App.5th at 305, *Chacon*, supra, and *Berglund*, supra) does not mean that the party is not indispensable.

The Court finds that Moving Parties, or other members of the public who advocate for the existence of a public easement over the Cut-Through are indispensable to the determination of the declaratory relief claim in the FACII. Advocates of the existence of a public easement and who have used the Cut-Through as a public easement over years or decades are clearly prejudiced by a declaration that no public easement exists and by the closing of public access to the Cut-Through required by the U.S. Bank Stipulated Judgment. The provisions of the U.S. Bank Stipulated Judgment expressly require the property owner to maintain a barrier to public use or access to the Cut-Through and make that obligation a covenant running with the land. The terms of the U.S. Bank Stipulated Judgment are not framed in a manner to limit the prejudice to the public by the private agreement between Intervenor and U.S. Bank.

Ranch at the Falls, supra, 38 Cal.App.5th 155 supports that Moving Parties are indispensable parties and that the failure to include them or other members of the public claiming the existence of a public easement over the Cut-Through renders the U.S. Bank Stipulated Judgment void to the extent that judgment declares no public easement over the Cut-Through exists and/or purports to deny their right to use the claimed public easement based on the barrier requirement in the judgment. In *Ranch at the Falls*, the trial court entered judgment quieting title in favor of the plaintiff by affirmatively imposing an easement in plaintiff's favor over property owned by the nonparty homeowners. (*Id.* at 172-173.) The judgment in that case expressly stated that third party homeowners in two residential developments were bound by the judgment, even though they were not named. (*Id.*) However, the individual nonparty homeowners owned the private streets in the two developments which the judgment declared were subject to the easement in the plaintiff's favor. (*Id.*) The homeowners who were not joined in the quiet title action moved to vacate the judgment, and the trial court denied their motion. The Court of Appeal reversed, holding the homeowners were indispensable parties and necessary to the quiet title action, the quiet title judgment was improper as all parties with an interest in the property were not parties to the action, and the judgment improperly granted an easement over private streets owned by the homeowners and outside the scope of the grant of the express easement in that case. (*Id.* at 172, 179.)

Opposing parties have not meaningfully distinguished *Thomson v. Talbert Drainage*

Superior Court of California, Contra Costa County

Department 18
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

Dist. (1959) 168 Cal.App.2d 687 cited by the Moving Parties. In that case, the Court affirmed a trial court order setting aside a stipulated judgment because indispensable parties whose contractual rights were adversely affected by the judgment were not joined in the action. (*Id.* at 688.) The stipulated judgment was between one landowner and the defendant drainage district and precluded the district from allowing surplus waste water to be drained from land within its jurisdiction. (*Id.* at 689-690.) The parties who successfully sought to vacate the stipulated judgment were other landowners and lessees within the district's jurisdiction who had contract rights to use the district's drainage and would have been precluded from doing so had the stipulated judgment not been vacated. (*Id.* [affirming trial court order setting aside stipulated judgment that affected nonparties with claimed contract rights in drainage system whose use was enjoined by the judgment].)

The fact the affected nonparties in *Thomson* had rights under a contract and Moving Parties and other members of the public who use the Cut-Through based on their claim of a public easement is not sufficient to make the principles of *Thomson* inapplicable. Moving Parties contend that members of the public impliedly accepted the offer of dedication made by the Perlows in the 1979 subdivision map, not unlike the offer and acceptance of a contract. (*Mikkelsen v. Hansen* (2019) 31 Cal.App.5th 170, 176 ["'an offer [of dedication] does not impose any burdens nor confer any rights, unless there is an acceptance.' [Citation.]"; *Biagini v. Beckham* (2008) 163 Cal.App.4th 1000, 1009 [offer and acceptance of dedication like a contract].) If there is a public easement over the Cut-Through on the U.S. Bank Property, the public has a property right or interest that members of the public are entitled to assert and protect, as in *Ranch at the Falls*. (See, e.g., *Marks v. Whitney* (1971) 6 Cal.3d 251, 261-262 [and cases cited therein]; *Johnson v. Ocean Shore Railroad Co.* (1971) 16 Cal.App.3d 429, 434 ["The interest in land which an easement constitutes is real property"]; *Gerhard v. Stephens*, 68 Cal.2d 864, 881 [same]; *Roth v. Cottrell* (1952) 112 Cal.App.2d 621, 625 ["easement appurtenant to real property" is an interest in real property].)

Though the U.S. Bank Stipulated Judgment is not technically a quiet title judgment as the demurrer to Intervenor's quiet title cause of action was sustained, granting Intervenor's judgment on their declaratory relief claim has a similar effect by declaring in effect that there is no public easement over the Cut-Through on the U.S. Bank Property. Intervenor and U.S. Bank were free to resolve the FACII between themselves, but the provision granting Intervenor's judgment for declaratory relief as well as provisions requiring owners of the U.S. Bank Property to maintain a barrier preventing public access and use of the Cut-Through has as a practical matter a similar effect, denying them the ability to exercise their asserted property rights or interests in

Superior Court of California, Contra Costa County

Department 18
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

access and use of the alleged public easement, rights or interests they did not have the opportunity to protect or advocate as they were not parties to the FACII.

B. Denial of Due Process

"The constitutional right to due process requires that a party be given notice and an opportunity to defend his or her interests." (See *Doe, supra*, 80 Cal.App.5th at 296.) Not unlike the stipulated judgment in *Thomson*, the US Bank Stipulated Judgment in effect denies the rights of nonparties, including members of the public, Hammond and Seibert, to access the Cut-Through, in effect granting judgment against them on a claim of the existence of a public easement. "For over 50 years California has recognized that a judgment may not be entered either for or against one who is not a party to an action or proceeding. [Citations omitted.]" (*Bronco Wine Co. v. Frank A. Logoluso Farms* (1989) 214 Cal.App.3d 699, 717-718.)

The grant of judgment on Intervenors' declaratory relief claim in effect adopted Intervenors' position that there is no public easement burdening the U.S. Bank Property even though no member of the public or other person advocating for the existence of and right to access the Cut-Through as a public easement had notice and an opportunity to be heard. Though as nonparties to the FACII and this action, Moving Parties are not bound by the U.S. Bank Stipulated Judgment and may pursue a collateral attack to declare the existence of a public easement, as they are presently doing in the Hammond Case, it is not clear that the collateral attack remedy is adequate and that due process is served if the U.S. Bank Stipulated Judgment remains in force and effect under the circumstances, given the public's claimed rights which are being impaired. (See, e.g., *Marks v. Whitney* (1971) 6 Cal.3d 251, 261–262 [and cases cited therein].) (See also *Water for Citizens of Weed California v. Churchwell White LLP* (2023) 88 Cal.App.5th 270, 284 [same].)

C. Absence of Actual, Justiciable Controversy

Moving Parties persuasively argue there was no actual justiciable controversy between Intervenors and U.S. Bank to support a granting a declaratory relief judgment under Code of Civil Procedure section 1060, which is part of the U.S. Bank Stipulated Judgment. Code of Civil Procedure section 1060 provides for declaratory relief "in cases of actual controversy relating to the legal rights and duties of the respective parties." (Code Civ. Proc. § 1060.) " 'Declaratory relief is not available unless there is a real dispute between parties, "involving justiciable questions relating to their rights and obligations." [Citation.] "The fundamental basis of declaratory relief is an actual, present controversy." ' " (*Taxpayers for Improving Public Safety v. Schwarzenegger* (2009) 172 Cal.App.4th 749, 768.) (See *In re Claudia E.* (2008) 163 Cal.App.4th 627, 638 [no actual

Superior Court of California, Contra Costa County

Department 18
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

controversy for declaratory relief where Department of Social Services agreed the law required the Department to file a petition within 48 hours after removal of a child from the parental home and that the Department failed to timely file the petition in that case, though another actual controversy existed that could be determined on the declaratory relief claim]; *Gillette v. Gillette* (1932) 122 Cal.App. 640, 642 [court has no jurisdiction to determine an undisputed voluntary account of a trustee, stating "No declaratory relief may be awarded where no controversy exists and when no one complains regarding the construction of a document."].)

The Court is persuaded that there was no actual, genuine dispute between Intervenors and U.S. Bank regarding the existence of a public easement burdening the U.S. Bank Property. To the contrary, since the Cut-Through burdens the U.S. Bank Property, and the allegations in the FACII and recitals in the U.S. Bank Stipulated Judgment indicate thousands of bicyclists and other members of the public use the Cut-Through on a regular basis, there is no evidence before the Court that U.S. Bank in fact opposed a determination that there was no public easement, that it had any interest or incentive to contest the Intervenors' claims, or that it advocated for, or had any incentive or interest in advocating for, the existence of a public easement over its property to defend against Intervenors' declaratory relief claim. The facts before the Court support an inference that the interests of Intervenors and U.S. Bank were aligned in declaring no public easement. The events of the case show U.S. Bank had only a short-term ownership interest in the U.S. Bank Property as a foreclosing lender and that it has since conveyed the property to a third party, roughly seven months after it was named a Roe defendant and two months after it stipulated to judgment.

The Court finds there was no actual, justiciable controversy between Intervenors and U.S. Bank to give the Court authority to grant declaratory relief to Intervenors as provided in the U.S. Bank Stipulated Judgment. (See Code Civ. Proc. § 1060 and other authorities cited above.) These authorities support Moving Parties' position that the judgment is void because its terms exceed the Court's authority to grant relief on Intervenors' declaratory relief claim under the circumstances. (*Plaza Hollister Ltd. Partnership v. County of San Benito* (1999) 72 Cal.Ap..4th 1, 33, [holding provisions of judgment were void, stating "the court had no authority under any circumstances to retroactively apply a reduction in base year value resulting from the assessment appeal to assessment years predating the assessment appeal. Consequently, the stipulated judgment is to that extent void"] and 35-36 [when party fails to file administrative claim for refund required by statute "a court is without power to grant relief"]; *People v. Hy-Lond Enterprises, Inc.* (1979) 93 Cal.App.3d 734, 745, 751-753 [stipulated judgment between one county district attorney and nursing home corporation was void as it

Superior Court of California, Contra Costa County

Department 18
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

purported to bind and limit the authority of other state agencies with enforcement duties which exceeded the district attorney's power and authority].)

Stay of Action

The Court has inherent authority to stay an action on its own motion where the Court finds circumstances warrant. (See *OTO, L.L.C. v. Kho* (2019) 8 Cal.5th 111, 141 [addressing inherent stay in the context of a motion to compel arbitration in an employment, stating " '[A] court ordinarily has inherent power, in its discretion, to stay proceedings when such a stay will accommodate the ends of justice.' (*People v. Bell* (1984) 159 Cal.App.3d 323, 329.) As the court in *Landis v. North American Co.* (1936) 299 U.S. 248, 254 explained, 'the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.' ".) Decisions in other contexts also reiterate the rule that the Court has inherent authority to stay proceedings to promote judicial efficiency or if the ends of justice so require. (*Freiberg v. City of Mission Viejo* (1995) 33 Cal. App. 4th 1484, 1489 [stating, "Trial courts generally have the inherent power to stay proceedings in the interests of justice and to promote judicial efficiency" so long as the trial court has jurisdiction]; *Jordache Enterprises, Inc. v. Brobeck, Phleger & Harrison* (1998) 18 Cal.4th 739, 758 [in the context of a legal malpractice action and related pending litigation, stating "The case management tools available to trial courts, including the inherent authority to stay an action when appropriate and the ability to issue protective orders when necessary, can overcome problems of simultaneous litigation if they do occur. [Citation omitted.]".])

A trial judge has inherent powers to manage and fashion procedures to control litigation to insure the orderly administration of justice. (*Cottle v. Superior Court* (1992) 3 Cal.App.4th 1367, 1376-79; see also Code Civ. Proc. §§ 128(a)(3) ["Every court shall have the power to do all of the following: To provide for the orderly conduct of proceedings before it, or its officers."] and (a)(5) ["Every court shall have the power to do all of the following: To control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter pertaining thereto."].)

In this case, U.S. Bank no longer owns the U.S. Bank Property, the new owner is not a party to the action, and U.S. Bank is in effect a nominal defendant. After setting aside the U.S. Bank Stipulated Judgment, Intervenor and U.S. Bank are the only remaining parties to the FACII. The Court finds the ends of justice warrant staying this action, because, among other reasons, the outcome of the Hammond Case is likely to have a significant if not determinative impact on the FACII depending on whether the Moving

Superior Court of California, Contra Costa County

Department 18
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

Parties prove their claim of a public easement over the Cut-Through on the U.S. Bank Property in that action.

Evidentiary Objections

A. Moving Parties' Objections to Intervenors' Evidence

Obj. Nos. 1-4 – The issues raised by the objections are **moot**, as Court does not consider the Tiernan Declaration for the reasons stated above.

Obj. No. 5 – **Sustained** as to the second sentence.

Obj. No. 6 -9 – **Overruled**.

B. Intervenors' Objections to Moving Parties' Evidence

Obj. Nos. 1, 2, 3, 5, 6 [¶ 18, obj. not numbered] – **Sustained**.

Obj. No. 4 – **Sustained in part**, only as to the first sentence of paragraph 11.

DATED: 6/21/2024

BY: _____

E. ROMERO, DEPUTY CLERK