

Tentative Rulings
January 16, 2025
Department S-17
Judge Joseph Ortiz

Tentative Rulings for Department S-17 are posted on the court's website (<https://www.sb-court.org/divisions/civil/civil-tentative-rulings>) at 3:00 p.m. or at 7:00 p.m. the court day before the hearing. If no tentative ruling is posted at 3:00 p.m., please check again after 7:00 p.m.

Unless you wish to submit on the tentative ruling, you must appear for the hearing either in person, CourtCall (888-882-6878 or www.courtcall.com), or by ZOOM. Failure to appear is deemed a waiver of oral argument. If you wish to submit to the tentative, please call the Judicial Assistant at (909) 708-8715 in advance of the hearing. If all parties submit on a tentative ruling, it will become final. The tentative ruling may seek input on particular issues and direct appearance. If so directed, attendance at the hearing is mandatory. The party prevailing on a motion or other hearing shall serve written notice of the court's ruling unless all parties waive notice of the ruling.

ATTENTION: Since January 9, 2023, the court no longer provides an official Court Reporter to transcribe proceedings. Parties who wish to have a transcript must retain their own private reporter and must submit a "Stipulation and Order to Use Certified Shorthand Reporter." Please contact the Department if you need this form. Prior to the hearing, you can email the completed Stipulation to Department S-17 at jgarcez@sb-court.org. Parties who do not retain their own reporter have waived the right to one.

UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.

12. *Myles v. Murray, et al*, Case No. CIVSB2328016 (consol. w/ LLTVA2305608)
Defendant's Demurrer
1/16/25, 9:00 a.m., Dept. S-17

Tentative Ruling

The Court would **OVERRULE**.

Case Summary

This is, in essence, a quiet title action. The allegations are that the subject property was originally owned by Plaintiff's now-deceased daughter. Plaintiff claims that the daughter quit-claimed the property to her on February 9, 2016 (recorded over seven years later in May of 2023) and that the daughter also issued a revocable deed on death as of October 31, 2017.

Unfortunately, Plaintiff's daughter fell very ill and entered hospice in April of 2023. During that time, Defendant, her ostensible attorney-in-fact, executed a deed transferring the subject property to a trust (Trust) that named him as a beneficiary. The original owner passed away as of April 23, 2023.

Following that, on October 9, 2023, the remaining trustee of the Trust (the named Defendant in the instant matter) brought an unlawful detainer action to evict Plaintiff from the subject property. Plaintiff contests the validity of the estate documents and their conveyance of the property. In that light, she filed this instant case on November 1, 2023, for (1) quiet title; and (2) cancellation of deed. On January 5, 2024, the unlawful detainer matter was consolidated into the instant case.

Statement of the Law

A demurrer challenges defects that appear on the face of the pleading, which includes incorporated exhibits, or from matters outside the pleading that are judicially noticeable. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318; *Frantz v. Blackwell* (1987) 189 Cal.App.3d 91, 94.) No other extrinsic evidence can be considered. (*Ion Equipment Corp. v. Nelson* (1980) 110 Cal.App.3d 868, 881.)

A demurrer predicated on insufficient facts to constitute a cause of action, pursuant to Code of Civil Procedure section 430.10(e), should be granted only when the facts alleged on the face of the complaint fails to state any valid claim entitled to the plaintiff. (*Gruenberg v. Aetna Ins. Co.* (1973) 9 Cal.3d 566, 572.) If the complaint fails to state a cause of action, the court must grant the plaintiff leave to amend if there is a reasonable possibility that the defect can be cured by amendment. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

Analysis

Defendant contends the complaint has a defect in that that the property's mortgage lender, Rocket Mortgage, is an indispensable party whom Plaintiff failed to name. (See Code Civ. Proc.,

§ 430.10(d) [defect as basis of demurer].) Here, the mortgage lender is a lien holder as to the subject property. Thus, the question focuses on whether a lien holder is necessarily an indispensable party.

A demurrer under Section 430.10(d) lies only where it appears from the face of the complaint or from matters judicially noticed that some third person is a necessary or indispensable. A plaintiff must join any party where (a) in their absence complete relief cannot be accorded among those who are already parties; or (b) in their absence any judgment rendered might either (i) prejudice the absent party's ability to protect its interest in later litigation or (ii) leave any of the parties before the court exposed to a risk of additional liability or inconsistent obligations. (Code Civ. Proc., § 389, subd. (a).) A party is indispensable if its rights must necessarily be affected by the judgment. (*Save Our Bay, Inc. v. San Diego Unified Port Dist.* (1996) 42 Cal.App. 686, 692.)

In this case, Defendant fails to set forth any authority supporting his claim that a lien holder is an indispensable party; thus, as a preliminary matter, he fails to meet his burden.

The purpose of an action to quiet title is to finally settle and determine, between the parties, all conflicting claims to the property in controversy and to decree to each such interest or estate therein as he may be entitled. (*Lechuza Villas West v. California Coastal Commission* (1997) 60 Cal.App.4th 218, 242.) A quiet title action is brought for the purpose of determining any adverse claim that may be asserted by a defendant to the land in controversy. (*Ibid.*) A lien holder or lien creditor, by contrast, is simply "[o]ne whose debt or claim is secured by a lien on particular property, as distinguished from a 'general' creditor, who has no such security." (*Black's Law Dict.* (6th ed. 1990) p. 923.) Thus, a lien holder's interest is only one in which its debt is secured by the property.

Plaintiff alleges that she has paid expenses relating to the subject property, including the mortgage. (Compl., ¶¶26-27.) In doing so, it appears she has prevented any foreclosure proceeding that might have constituted an adverse claim on the property. Notably, Defendant does not contest that there is no foreclosure at issue. This posture does not appear to make the mortgage lender an indispensable party.
