

PROPOSED TENTATIVE

The original verified complaint, filed by plaintiff Bonita Fout (Fout), was filed on May 10, 2024. Ms. Fout named as defendants Barbara Grace Bailey (Grace¹), John L Bailey (John), Margaret Bailey (Margaret), Allen Hammon (Hammon), Richard Maxwell (Richard), Marie Maxwell (Marie), Gloria Perea (Gloria), and Mario Perea (Mario), advancing two causes of action for quiet title and declaratory relief. The dispute involves property located at 402 West Street, Santa Maria, California, 93458 (real property). Fout (along with her deceased husband) purchased the real property in or around September 2008 from Wanda Lee Kendrick by recorded grant deed. According to the complaint, on March 31, 1982, Wanda Lee Kendrick (and her husband O.T. Kendrick) “executed an Agreement and Grant (‘Kendrick/Bailey Agreement’) purportedly to confirm an alleged transfer that occurred in the 1960s of a portion of the [real property] to John Bailey and Margaret Bailey,” who are the deceased parents of defendant Grace. The property at issue in this alleged transfer involves part of the real property. When Fout obtained the property in 2008 she was unaware of the Kendrick/Bailey Agreement or any oral agreement to transfer part of the real property. Plaintiff claims the Kendrick/Bailey Agreement/oral agreement is unenforceable, and claims it holds full fee simple title to the real property. An amended complaint was filed on May 24, 2024, changing defendant Marie Maxwell to Anna Marie Maxwell (i.e., Marie to Anna). Grace filed an answer in propria persona on July 8, 2024.

A number of events have occurred since the original complaint was filed. On September 24, 2024, a stipulated judgment was entered between Fout and Gloria (successor to estate of her deceased husband Mario). With Gloria disclaiming any right, title, and interest in the real property, and relinquishing “any right, title and interest” that she may have acquired, she was thus dismissed as a party. On July 10, 2025, default was entered against 1) John, believed to be deceased, and all his beneficiaries; 2) Margaret, believed to be deceased, and all her beneficiaries; 3) Anna, believed to be deceased, and all her beneficiaries; 4) Richard, believed to be deceased, and all his beneficiaries; 5) Hammon; and 6) all persons unknown, claiming any legal or equitable rights, title, estate, lien or interest in the property, as described in the complaint. These events left Grace as the sole remaining defendant. On August 4, 2025, Fout and Grace stipulated that Fout could file a first amended pleading, removing Fout as plaintiff and substituting her with plaintiff Hancock Heights, LLC (Hancock). Hancock purchased the real property from Fout. (Issue Nos. 20.) The first amended complaint otherwise remained the same as the initial pleading.

Hancock has filed a motion for summary adjudication as to the quiet title cause of action **only**. It advances a single issue generically phrased in the separate statement as follows: “As to

¹ The court will use defendants’ first names when surnames are the same for convenience and ease of reading. No disrespect is intended.

Hancock Heights, LLC's claim for quiet title alleged against Defendant Barbara Grace Bailey, Hancock Heights, LLC is entitled to judgment in its favor as a matter of law." Hancock then lists 24 issues of undisputed facts in serial fashion in its separate statement. On Thursday, September 10, 2026, defendant Grace, in propria persona, filed opposition (including a request for judicial notice).

The court will first have to address the *patently* untimely opposition filed by defendant. The court directs the parties to address this issue at the hearing. The court is inclined to strike all opposition documentation as untimely, as it was not filed and served within 20 days of the September 15, 2026 hearing date. (Code. Civ. Proc., § 437c, subd. (b)(2).) The issue is not even close, even if the court takes into account the fact defendant is in propria persona. If the court does not strike the opposition, it will have to continue the hearing in order to afford plaintiff a reasonable opportunity to file a reply.

If the court strikes the opposition, the court must address the merits of the summary adjudication motion. It will first address plaintiff's request for judicial notice. It will then outline the relevant principles of law that frame the inquiry. The court will then discuss whether plaintiff has established a prima face basis for summary adjudication as to the quiet title cause of action. It will conclude with a summary of its conclusions.

A) Judicial Notice

Plaintiff asks the court to take judicial notice of the following documents: 1) court documents from *Estate of John Bailey*, Santa Barbara County Superior Court Case No. SM113125 (assigned to Santa Barbara County Superior Court Judge Zel Canter) – Petition for Final Distribution on Waiver of Accounting (Exhibit 1), Order to Show Cause (Exhibit 2), Minute Orders (Exhibits 3 and 4); 2) court documents from *Estate of Timothy Fout*, Santa Barbara County Superior Court Case No. 24PR00304 (assigned to Santa Barbara County Superior Court Judge Jed Beebe) – Spousal Property Order (Exhibit 5); 3) grant deed recorded with the Santa Barbara County Recorder dated January 8, 1962, involving transfer of real property to Wande Lee Kendrick and O.T. Kendrick (Exhibit 6); 4) grant deed recorded with the Santa Barbara County Recorder dated September 8, 2008, involving transfer of real property to the Fouts (Exhibit 7); 5) grant deed recorded with the Santa Barbara County Recorder dated September 25, 2024, involving transfer of real property to Hancock (Exhibit 8); 6) the litigation guarantee offered by Fidelity National Title Insurance Co. (Exhibit 9); and 7) the Kendrick/Bailey agreement, dated March 1, 1982. The request is granted.

B) Legal Principles

Plaintiff has filed a summary adjudication motion as to the quiet title cause of action. A plaintiff, who bears the burden of proof at trial by a preponderance of evidence, must “present evidence that would require a reasonable trier of fact to find the underlying material fact more likely than not.” (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 857.) A plaintiff meets this burden by showing that each element of the cause of action entitles him or her to judgment on that cause of action. Once plaintiff has met that burden, the burden shifts to the defendant to show that a triable issue of one or more material facts exists as to the cause of action or to any defense thereto. Defendant may not rely upon the mere allegations or denials in pleadings to show that a triable issue of material fact exists, but, instead, must set forth the specific facts showing that a triable issue of material fact exists as to that cause of action or defense thereto. (*Id.* at p. 860.) Put another way, “summary judgment law in this state no longer requires a plaintiff moving for summary judgment to disprove any defense asserted by the defendant as well as prove each element of his own cause of action. . . . All that the plaintiff need do is to ‘prove[] each element of the cause of action.’ [Citation.]” (*Aguilar*, at p. 853.) “Once the plaintiff . . . has met that burden, the burden shifts to the defendant or cross-defendant to show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto.” (Code Civ. Proc., § 437c, subd. (p)(1).) “Summary adjudication works the same way as summary judgment, ‘except it acts on specific causes of action or affirmative defenses, rather than on the entire complaint.’ ” (*Oroville Hospital v. Superior Court* (2022) 74 Cal.App.5th 382, 398.)

It appears undisputed that Hancock is the legal, titled owner of the real property in question. The Kendrick/Bailey Agreement, which purported to convey a portion of the real property at issue, was never recorded. (Issue No. 2.) Further, no agreement was actually executed, and no grant deed was ever filed concerning the Kendrick/Bailey Agreement. (Issue No. 3.) And according to plaintiff, Fout has obtained a litigation guarantee,² which reflects that legal title to the entirety of the real property was held in Fouts’ name as of April 4, 2024, following her purchase. (Issue No. 23.) The litigation guarantee also reflects that the only known transaction concerning the real property prior to the Fouts purchase was the original 1962 deed transferring title to the Kendricks as husband and wife. (Issue No. 24.) As the undisputed evidence shows that plaintiff’s predecessors and thus plaintiff are the titled owners, Evidence Code section 662 would apply – that is, the “owner of legal title property is presumed to be the owner of the full beneficial title. This presumption may be relevant in determining whether disputed issues of material fact exist to overcome a request for summary adjudication, notably as no opposition has been filed. (See generally *National Grange of Order of Patrons of Husbandry v. California Guild* (2017) 17 Cal.App.5th 1130, 1160.)

² A “litigation guarantee” is a request by an attorney about the status of a parcel of property issued by a title company in connection with a legal proceeding. (Miller & Starr, California Real Estate 4th Ed. (2026), § 7.182.) Exhibit 9 of plaintiff’s evidentiary proffer consists of such a guarantee issued by Fidelity National Insurance Company, indicating the Fouts were the only legal title owners (as there were no other recorded interests other than the Kendricks purchase in 1962).

The essential elements of a claim for quiet title are that “the plaintiff is the owner in fee simple of the described property, that each defendant claims some interest in the property, that each claim is wrongful and that no defendant has any interest in the property.” (*Lucas v. Sweet* (1956) 47 Cal.2d 20, 22.) More specifically, to prevail on a quiet title cause of action, a plaintiff must establish title to the proper in dispute, and may recover only upon the strength of his or her own title, and not upon the weakness of defendant’s title. Plaintiff must make out a prima facie case of ownership, and the evidence in support must support grounds for summary adjudication. (*Thompson v. Ioane* (2017) 11 Cal.App.5th 1180, 1196.) Where the plaintiff relies on a paper title alone he must trace his title (1) to the government; or (2) to grantor in possession at the time of the conveyance to the plaintiff; or (3) to a source common to the chains of title of plaintiff and defendant.” (*Ernie v. Trinity Lutheran Church* (1959) 51 Cal.2d 702, 706; *Thompson, supra*, at p. 1195.)

3) Merits

Plaintiff has made a prima facie case establishing all elements of a quiet title cause of action. It has shown that it is the legal owner of the real property, based on a clear chain of legal title that dates back to 1962. (Issue Nos. 1, 2, 13, 14, 15,16, 18, 19, 20, 21, 23, and 24 in Defendant’s Separate Statement). Plaintiff has also shown that while the Kendrick/Bailey Agreement was signed in 1982; and that pursuant to that agreement the signatories (John and Margarat Bailey) secured a portion of the real property for \$2,700; there was never an executed agreement and no recorded evidence of the transaction. (Issue No. 3.) Indeed, the Kendrick/Bailey Agreement itself indicated that title to the partial portion would be conveyed as soon as a subdivision or a lot split was obtained, and to date, there has been no approval for a lot split, and no lot split has every occurred. (Issues Nos. 4 and 5). It is also clear that defendant Grace received her interest in the property via the Kendrick/Bailey Agreement through intestacy, and her mother (Margaret) and late father (John) have both passed away. (Issue Nos. 6, 7, 8, 9, 10, ,11, and 12.)

Plaintiff has also shown that defendant’s interest is trumped by plaintiff’s superior title. Plaintiff claims, for example, that when the Fouts purchased the property from the Kendricks (as Fout initiated the present lawsuit), she had no knowledge of the 1982 Kendrick/Bailey Agreement (Issue No. 14), and no knowledge that Baileys purchased a portion of the real property from the Kendricks in the 1960s for \$2,700 (Issue No. 15); had no knowledge that anyone, including the Baileys, had an interest in the real property (Issue No. 16), although the Fouts let the Baileys remain on the property as pre-existing tenants, who paid rent (Issue No. 17); and that at no time was any executed agreement or grant deed reflecting the transfer between the Kendricks and Baileys every recorded or part of chain of title.

In the end, plaintiff has presented undisputed evidence that the Fouts were bona fide purchasers of the real property at the time they purchased the real property in 2008, a fact that inures to plaintiff’s benefit for purposes of summary adjudication. As explained by Miller and

Starr in their preeminent California real estate treatise, “[A] bona fide purchaser takes priority over prior unrecorded interest of which he or she has no notice, actual or constructive. A preferential priority is given to a purchaser or encumbrancer who acquires a lien or title interest in good faith and for value without knowledge or notice of a prior interest. Such a party is called a ‘bona fide purchaser’ or a ‘bona fide encumbrancer,’ depending on whether the interest is an estate in the property or a lien on the property, and such a person takes his or her interest in the property free and clear of unrecorded interests of which he or she has no notice, actual or constructive. [¶] A ‘bona fide purchaser’ is a person who acquires an interest in real property, or enters into a contract to purchase real property in good faith and for value, without knowledge or notice of a prior interest and who has parted with value in consideration of the interest” (4 Miller & Starr, Cal. Real Estate (4th ed. 2026) § 10:50, fns. omitted.) “The purchaser’s or encumbrancer’s status is determined at the time that the interest or lien is acquired and any information learned after he or she acquires an interest does not affect his or her status as a bona fide purchaser or encumbrancer.” (*Ibid*; see *Caito v. United California Bank* (1978) 20 Cal.3d 694, 702 [“Policy runs against upholding secret liens and charges to the injury of *subsequent* innocent encumbrancers. [Citation.] [¶] ‘. . . A purchaser (including an encumbrancer) in good faith for value and without actual or constructive notice is entitled to protection against undisclosed liens and equities *existing* against . . . unrecorded instruments.’ ” (Italics added)]; *Melendrez v. D & I Investment, Inc.* (2005) 127 Cal.App.4th 1238, 1251 [bona fide purchaser for value who acquires interest in real property without notice of another’s asserted rights in the property takes the property free of such unknown rights; same elements apply to bona fide encumbrancer]; *Triple A Management Co. v. Frisone* (1999) 69 Cal.App.4th 520, 530, 81 Cal.Rptr.2d 669 [good-faith encumbrancer for value is *subsequent* encumbrancer]; see *Kahan v. City of Richmond* (2019) 35 Cal.App.5th 721, 739–740.) The bona fide purchaser acquires priority over prior interests where there is valuable consideration, in good faith paid without actual or constructive knowledge of the unrecorded interest, when he or she first records the instrument created his or her interest. (4 Miller & Starr, *supra*, § 10:50.) “Other than short term leasehold interests, prior unrecorded and unknown interests are not enforceable against the bona fide purchaser or encumbrancer.” (*Ibid*.) A title or lien held by a bona fide purchaser or encumbrancer can be conveyed to a grantee or assignee free and clear of prior unknown interest even if the grantee or assignee does not fulfill the requirements of a bona fide purchaser or encumbrances (i.e., even if the bona fide purchaser’s transferee is not a bona fide purchaser because he or she had actual knowledge of prior unrecorded interest at the time of purchase). (*Id.* at § 10:58.)

The uncontested evidence shows that the Fouts were bona fide purchases, for value, of the real property in question at the time of purchase in 2008 without any actual or constructive knowledge of the unrecorded Kendrick/Bailey Agreement or of any oral agreement in the 1960s about transfer of part of the property to the Baileys. As Hancock purchased the real property from Susan Fout, a bona fide purchaser, it also is a bona fide purchaser. Plaintiff’s legal title is therefore superior to, and therefore trumps, any beneficial interest held by defendant. Evidence

Code section 662 simply reinforces this conclusion, as it appears defendant cannot rebut the presumption by disputed evidence as a matter of law. If the court strikes the opposition, there is no evidence to show a material issue of fact exists as to any element of the quiet title cause of action as a result, and accordingly, the court grants defendant's summary adjudication motion as to the first cause of action for quiet title. (Code Civ. Proc., § 437c, subd.(c) [summary judgment/adjudication must be granted if the papers show an absence of triable issue of material fact and that the moving party is entitled to judgment as a matter of law].)

The court directs plaintiff to address the status of the second cause of action for declaratory relief after the court's ruling today as to the first cause of action for quiet title.

Summary:

The court directs the parties to address the untimeliness of defendant's opposition, which is patent. The court is inclined to strike the opposition. If it does not strike the opposition, it will have to continue the hearing to afford plaintiff a reasonable opportunity to file a reply.

If the court strikes the opposition, it will examine the merits of the motion. It grants plaintiff's request for judicial notice. Further, it determines that plaintiff has established a prima facie case for summary adjudication as to the first cause of action for quiet title, and thus grants summary adjudication as to the first cause of action. The parties are directed to address the status of the second cause of action for declaratory relief at the hearing (as it is not part of the summary judgment/adjudication motion).