Tentative Ruling:

For all the reasons discussed below, the court instructs plaintiff to appear and address why the minor has been denominated as a Doe defendant in the proposed amended complaint, and whether plaintiff is aware of any other persons who may qualify as decedent's successors in interest.

The parties are instructed to appear at the hearing for oral argument. Appearance by Zoom Videoconference is optional and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance. (See Remote Appearance (Zoom) Information | Superior Court of California | County of Santa Barbara.)

Background:

On October 24, 2024, plaintiff Nationstar Mortgage LLC filed its complaint to judicially foreclose on the real property commonly known as 1335 Dolcetto Lane, Santa Maria, California 93458 (the "Property"). It alleged that Tony Larks and Johannes Johnson were the owners of the Property as joint tenants and that they failed to pay the installment payment that was due on January 1, 2024, and the subsequent months. On December 30, 2024, the court ordered that summons be served by publication on Tony Larks and Johannes Johnson, which was accomplished. On March 11, 2025, the clerk entered default against defendants Johannes Johnson and Tony Larks ("Entry of Default"). On April 24, 2025, the Court entered a Judgment of Foreclosure and Order of Sale in plaintiff's favor (the "Judgment").

While preparing this property for sale, plaintiff's attorney discovered that Johannes Johnson died on or about December 22, 2023, ***before*** this action was initiated. (Lesgold Decl., ¶ 3.) On February 17, 2026, the court set aside the judgment against Johnson only so to give plaintiff an opportunity to substitute her estate as a defendant in the action.

Plaintiff now moves for leave to amend the complaint. It proposes to add a cause of action for Enforcement of Secured Claim Against Decedent's Property pursuant to California Probate Code § 9391. It also proposes to add as defendants, "THE TESTATE AND INTESTATE SUCCESSORS OF JOHANNES JOHNSON (collectively, "Decedent's Successors"), and JANE DOE, a minor (believed to be Johnson's minor child), who may have or claim an interest in the Property."

The court intends to grant the motion to the extent it proposes to add a cause of action to enforce the claim. Generally, debt against a deceased debtor is not enforceable against the estate under the Enforcement of Judgments Law but is payable in the course of administration. (See Prob. C. § 9300, subd. (a); see *Torjesen v. Mansdorf* (2016) 1 Cal.App.5th 111, 117 [trial court's order invalidating third-party claim on judgment debtor's property under Enforcement of Judgment Law, entered after debtor's death, was in excess of jurisdiction and thus voidable, not void; it became final when period to appeal expired, and third party's subsequent attack on order was properly denied].) In the usual course, enforcement requires the filing of a creditor's claim against the decedent's estate in a probate proceeding to be satisfied in the course of administration.

However, Probate Code section 9391 provides in part "[t]he holder of a mortgage or other lien on property in the decedent's estate . . . may commence an action to enforce the lien against the property that is subject to the lien, without first filing a claim as provided in this part, if in the complaint the holder of the lien expressly waives all recourse against other property in the estate. Section 366.2 of the Code of Civil Procedure does not apply to an action under this section." (*Novak v. Fay* (2015) 236 Cal.App.4th 329, 337—petition to enforce lien for attorney fees could be brought against beneficiary's interest in trust without first filing creditor's claim.)

Our Supreme Court expressly rejected the debtor's contention that enforcement of the judgment lien in the course of estate administration is the exclusive remedy of the judgment lien creditor on the death of the debtor prior to levy of execution. (*Corporation of America v. Marks* (1937) 10 Cal.2d 218, 221; *County Line Holdings, LLC v. McClanahan* (2018) 22 Cal.App.5th 1067, 1072.) Instead, the judgment creditor has an option: file a timely claim in the estate probate proceeding and seek a deficiency; or, without filing a claim, bring an action to foreclose the lien during its statutory duration, waiving any right to a deficiency. (*County Line Holdings, LLC, supra,* 22 Cal.App.5th at 1073.) Thus

It thus appears that plaintiff's proposal to pursue a civil action for judicial foreclosure is permitted even in the absence of a probate proceeding. The proposed amended complaint "waives all recourse against other property in Decedent's estate." (Proposed First Amended Complaint, ¶ 35.)

The second request, e.g., to amend the complaint to add the successors in interest and Jane Doe requires clarification. A cause of action against a decedent that survives may be asserted against the decedent's personal representative or, to the extent provided by statute, against the decedent's successor in interest. (Code Civ. Proc., § 377.40.) Here, plaintiff proposes to assert the action against the decedent's successor in interest pursuant to Code of Civil Procedure section 762.030. That section applies to quiet title proceedings and authorizes joinder of a deceased defendant's successor in interest as defendant where no personal representative has been appointed. The court accepts this premise.

Code of Civil Procedure section 377.11 provides " 'decedent's successor in interest' means the beneficiary of the decedent's estate or other successor in interest who succeeds to a cause of action or to a particular item of the property that is the subject of a cause of action." A "beneficiary" is defined as an heir of decedent's intestate estate, or a devisee of decedent's testate estate. (Prob. Code, § 24.)

Plaintiff alleges: "Plaintiff is informed and believes that Decedent may have heirs, devisees, successors, assigns, or other claimants, including possible minor children, whose identities and capacities are presently unknown, who may claim an interest in the Property." (Proposed First Amended Complaint, ¶ 18.) Plaintiff further alleges "Plaintiff is informed and believes that JANE DOE, a minor, is Decedent's minor child and may have or may claim an interest in the Property." (*Id.* at ¶ 19.) This is adequate for pleading purposes, as far as it goes. Before judgment can be entered, however, the court will need more factual information to ascertain whether other heirs or devisees exist.

There is no allegation in the proposed amended complaint or explanation in the memorandum indicating why the minor defendant has been denominated "Jane Doe." [1] The names of all parties to a civil action must be included in the complaint. (Code Civ. Proc., § 422.40; *Department of Fair Employment and Housing v. Superior Court of Santa Clara County* (2022) 82 Cal.App.5th 105, 109.) The court is aware of no general civil rule that creates automatic pseudonymity for minors, nor do any of the specific confidentiality rules apply to this action.

The court instructs plaintiff to appear and address why the minor has been denominated as a Doe defendant in the proposed amended complaint, and whether plaintiff is aware of the identities of any other persons who may be decedent's successor(s) in interest.[2]

---

[1] This is important, because plaintiff will have to serve Jane Doe. If the defendant is a child, service must be made on the parent or guardian; or if none can be located after reasonable efforts, on any other person having care or control of the child, or with whom the child resides or by whom the child is employed. (Code Civ. Proc., § 416.60.) The court will need confirmation that service properly occurred.

[2] Co-defendant and joint tenant Tony Larks is alleged to be on trial for causing decedent's death. (Proposed Amended Complaint, ¶ 16.) A conviction will automatically "sever[ ] the interest of the decedent so that the share of the decedent passes as the decedent's property and the killer has no rights by survivorship." (Prob. Code, § 251.)