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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. CASSIE WILL-DARNALL, Defendant. SANDRA WILL, Third Party Petitioner.	CASE NO. CR-24-00292-PCP UNITED STATES' NOTICE OF MOTION AND MOTION TO DISMISS FIRST AMENDED PETITION Date: March 18, 2026 Time: 10:00 a.m. Courtroom: Courtroom 8, 4th Floor Judge: Honorable P. Casey Pitts

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, on March 18, 2026, at 10:00 a.m., or as soon thereafter as the parties may be heard, in Courtroom 8 of the Robert F. Peckham Federal Building and United States Courthouse, the United States of America will and hereby does move for a dismissal with prejudice of the petition to the real property located at 111 Belwood Gateway, Los Gatos, CA 95032, APN 527-31-019, asserted in the first amended petition filed by third party Sandra Will.

This motion is based on Federal Rule of Criminal Procedure Rule 32.2, the accompanying Memorandum of Points and Authorities, the supporting declarations, the pleadings and documents on file in this action, and any argument and evidence the Court may permit at the hearing or permitted at any prior proceeding.

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INTRODUCTION

On June 4, 2020, Cassie Will-Darnall fraudulently obtained $968,989, potentially the largest sum of money she had ever received (until, at least, she received $1,864,565 a few weeks later). Within eleven days, Will-Darnall poured most of that money into the Belwood Property.[1] She poured the money into Belwood by paying off a loan from Sandra Will secured by the 2019 Deed of Trust. Five days later, Will-Darnall transferred to Will title to the Belwood Property, despite having just repaid Will's loan.

There is a simple explanation for this conduct consistent with the pleadings and evidence before this Court: Will-Darnall was trying to shield fraud proceeds from recovery. That effort to shield fraud proceeds from recovery continues in Will's amended claim, in which she asserts her fourth theory of relief. Her initial claim was predicated on the 2019 Deed of Trust. Now, however, Will claims that before securing a loan to Will-Darnall with the Belwood Property, Will already owned the property. On the uncontroverted record before this Court, this new claim can only be described as absurd.

It would be absurd for a bank to secure loans with the bank's own brick-and-mortar stores. It would be absurd for a car dealership to secure car loans to buyers with the dealership's inventory. And it would be absurd for a mother to secure a loan to her daughter with the mother's own property. Simply put, a security interest only works if the secured property is the borrower's, not the lender's. But—despite a documented sophistication in real estate and asset protection learned from a felon—Will now demands, subject to penalty of perjury, this Court accept the absurd as true.

Whatever its factual merit, Will's latest theory should be denied with prejudice because it fails as a matter of law for at least the following two reasons:

First, because the time limit applicable to third-party claims in forfeiture proceedings is strictly observed, Will should not be permitted to assert a new theory of relief now 196 days after the expiration of that time limit. While the ancillary proceeding borrows from the Federal Rules Civil of Procedure, it does not reflect the same permissive approach to amendment, given the express timing of the statute.

[1] As in prior filings concerning forfeiture, defined terms retain the definitions provided in earlier pleadings, and citations to ECF-file documents refer to the ECF-generated pagination.

Second, Will has not pled facts sufficient to support her new theory because she has not alleged—as she must—circumstances showing that she and Will-Darnall intended Will-Darnall to hold the legal interest to the Belwood Property, while Will held the beneficial interest to the property. Without such allegations, Will's claim to a resulting trust—an equitable remedy rarely applied, particularly in cases, such as this one, involving familial relations—fails as a matter of law.

I. Factual and Procedural Background

The government incorporates the factual and procedural background provided in prior pleadings. Dkts. 43, 77.

At the initial hearing on Will's claim, her counsel indicated that he had received additional evidence from his client supporting Will's interest in the Belwood Property. Will's counsel indicated he did not want to sandbag the government before that hearing and so had not provided any of the materials to the government. That evidence has still not been provided to the government and does not appear to form the basis of Will's amended claim.

Will's counsel also claimed that in preparing for the hearing he determined a better way to characterize Will's claim and would appreciate the opportunity to amend. Will's counsel, however, never mentioned a resulting-trust theory. Will's counsel acknowledged that, as a third party, Will did not have any right to contest forfeitability. But Will's counsel asserted that the government had cited no law or precedent supporting its approach to forfeiture in this case.

The government objected to Will's eleventh-hour request to amend. And the government expressed skepticism that a person could own a property in California without holding title.

On October 21, 2025, the Court dismissed Will's claim with leave to amend. Dkt. 103. On November 11, 2025, Will filed her amended claim. Dkt. 104. In support of her amended claim, Will relies on all the same evidence as in her original claim. *Compare* Dkt. 65, *with* Dkt. 104. Included in that evidence are the following:

1. A petition for dissolution of a marriage and domestic partnership dated September 15, 2016, signed by Cassie Will-Darnall, in which the Belwood Property is characterized as Will-Darnall's separate property (Dkt. 104-5, at 5);

2. A stipulated judgment for dissolution of marriage dated April 3, 2017, signed by Cassie Will-Darnall, in which the Belwood Property is "awarded" to Will-Darnall and in which Will-Darnall's ex-spouse is described as having "received a buy-out from Cassie [Will-Darnall] as to her interest" in the Belwood Property (Dkt. 104-6 at 5–6); and
3. Checks from Will-Darnall to Will for the "Belwood Mortgage" (*e.g.*, Dkt. 104-7 at 5).

At a hearing on Will-Darnall's restitution and forfeiture obligations, the Court reiterated Will's assertion that forfeiture of the Belwood Property is unsupported by law. *See* Dkt. 109. And Will-Darnall's counsel characterized the Belwood Property as the home of Will-Darnall, not Will.

II. Legal Standard

The government supplements the record to further establish the legal basis for forfeiture of the Belwood Property, while reserving all rights to object to a third party's ability to challenge the forfeitability of property in the ancillary proceeding. *E.g.*, *United States v. Holy Land Foundation for Relief and Development*, 722 F.3d 677, 689–90 (5th Cir. 2013) (quoting the advisory committee notes to Federal Rule of Criminal Procedure 32.2).

As detailed in the government's motion to dismiss or for summary judgment (Dkt. 77), the government intends to forfeit from the Belwood Property both the "amount of the proceeds traced into th[e] property—$746,372.98—and the . . . amount of the money judgment . . . $1,406,594.56." Id. at 7. This two-step approach is supported by the law and precedent.

First, Will-Darnall put $746,372.98 of fraud proceeds into the Belwood Property. Those funds were derived from Will-Darnall's first count of conviction, bank fraud (18 U.S.C. § 1344(2)). This fact is uncontested and dispositive of the government's ability to recover $746,372.98 in equity from the sale of the home (assuming the Belwood Property has that much in equity, which is unclear given the number, and alleged value, of encumbrances on the property).

18 U.S.C. § 981(a)(1)(C) provides for the forfeiture of any real property derived from proceeds traceable to a violation of 18 U.S.C. § 1344(2). While section 981 applies to civil proceedings, Congress extended its application to criminal proceedings in 28 U.S.C. § 2461(c).

At the hearing on the motion to dismiss, Will's counsel claimed the government had cited no authority for forfeiting real property when fraud proceeds were used to make mortgage payments on the property, not buying it outright. Not so. *See* Dkt. 77, n.12.

Having been advised of this inaccuracy after the hearing, Will's counsel now admits in a footnote that precedent supports forfeiture of equity in a home acquired with fraud proceeds. Dkt. 104, at 13 n.4. As the government previously wrote, a contrary result would yield the bizarre outcome where " a defendant could acquire a home with a no-down-payment [or zero-percent-down] loan and then shield their crime proceeds from forfeiture simply by making their mortgage payments. Dkt. 77, at 21 n.12; *see also United States v. Caspersen*, 275 F. Supp. 3d 502, 504 (S.D.N.Y. 2017) ("[A] defendant may not convert crime proceeds into 'clean' funds simply by taking out a HELOC and repaying it using crime proceeds.").

Such a result is contrary to precedent because real property acquired with fraud proceeds (including through an all-cash purchase or mortgage payments) is plainly forfeitable under 18 U.S.C. § 981. *See, e.g.*, *United States v. Miller*, 911 F.3d 229, 235 (4th Cir. 2018) ("Miller's further argument that expenditures on mortgage interest payments are not traceable to equity in the property is not supported by authority. Payments on the mortgage directly increased Miller's equity in the Virginia property whether they went towards interest or principal on the note. The fraud proceeds were therefore 'traceable to' Miller's equity interest as required by § 981."); *United States v. Pole No. 3172, Hopkinton*, 852 F.2d 636, 640 (1st Cir. 1988); *Caspersen*, 275 F. Supp. 3d at 504 ("When a mortgage for real property is paid using crime proceeds, the Government acquires an interest in that property."); *see also United States v. Totaro*, 345 F.3d 989, 998 (8th Cir. 2003) (holding defendant's wife may only recover what interest she had in the marital property as a matter of state law before defendant committed the offense and began using criminal proceeds to pay off the mortgage and make improvements).

Given the plain language of § 981 and precedent, Will pivots and argues now that the government is not entitled to forfeit any excess equity beyond the proceeds traced into the property. Dkt. 77, n.12. But this argument, too, is contrary to the law and precedent.

Once the Court enters a final order of forfeiture including the money judgment of $1,406,594.56, the government will apply to the Court for the forfeiture of substitute assets—namely, any equity in

excess of $746,372.98, but not to exceed $1,406,594.56 (that is, $2,152,967.54 in total), resulting from the sale of the Belwood Property—to satisfy the money judgment. *See* Fed. R. Crim. P. 32.3(e); 21 U.S.C. § 853(p).

Section 853(p) allows the government to satisfy a money judgment with substitute property (including equity from the sale of a house) when the Court determines property subject to forfeiture, including fraud proceeds:

1. Cannot be located upon the exercise of due diligence;
2. Has been transferred or sold to, or deposited with, a third party;
3. Has been placed beyond the jurisdiction of the court;
4. Has been substantially diminished in value; or
5. Has been commingled with other property which cannot be divided without difficulty.

21 U.S.C. § 853(p). In short, substitute property may be used to satisfy a money judgment when, as here, the defendant has dissipated the fraud proceeds. *Cf. United States v. Gordon*, 710 F.3d 1124, 1166 (10th Cir. 2013) ("The Government generally has little difficulty in making the necessary showing [under § 853(p)]."") (citations omitted) (collecting cases).

If the Court determines the elements of section 853(p) are met, as the government expects it will, then forfeiture of any excess equity from the sale of the Belwood Property—up to $1,406,594.56—as a substitute asset is mandatory. *E.g., United States v. Alamoudi*, 452 F.3d 310, 314 (4th Cir. 2006) ("Section 853(p) *is not discretionary*; rather, the statute *mandates forfeiture* of substitute assets 'when the tainted property has been placed beyond the reach of a forfeiture.'" (emphasis added)); *United States v. Knowles*, 819 F. App'x. 781, 783 (11th Cir. 2020) ("Rule 32.2(e) further provides that, if the government shows that the defendant's property is subject to forfeiture as substitute property, *the court must* enter an order forfeiting that property." (emphasis added)); *United States v. Garza*, 407 F. App'x. 322, 325 (10th Cir. 2011) ("Because the requirements for the forfeiture of substitute property in § 853(p) were satisfied, the district court was *required* to amend its order of forfeiture to include the identified real property as substitute property in partial satisfaction of the criminal forfeiture money judgment." (emphasis added)); *see also United States v. Kramer*, 25 F.4th 509, 512 n.6 (7th Cir. 2022) ("Property that could have been forfeited as direct proceeds of criminal activity may nevertheless be forfeited later

as substitute assets."); *cf. United States v. Nejad*, 933 F.3d 1162, 1165 (9th Cir. 2019) ("Section 853(p) does not limit the substitute property eligible for forfeiture to property that the defendant owns at the time of sentencing. We have accordingly held that a court may order forfeiture in the form of a personal money judgment against the defendant, and that the government may attempt to satisfy the judgment with any substitute property it locates in the future." (citations omitted)).

Against this backdrop, the government's approach to forfeiture cannot credibly be described as "novel" as Will's counsel persists in claiming. *Compare* Dkt. 104, at 13, *with, e.g, United States v. Susan Xiao-Ping Su*, 11-CR-288-JST (N.D. Cal.), Dkt. 228 (amended final order of forfeiture including five real properties); *United States v. Esther Sanchez*, 15-CR-475-BLF (N.D. Cal.), Dkt. 183 (final order of forfeiture contemplating applying real-property-sale proceeds to money judgment); *United States v. Pavel Lazarenko*, 00-CR-284-CRB (N.D. Cal.), Dkt. 1626 (final order of forfeiture forfeiting real property acquired with laundered money); *United States v. Jonathan Chang*, 16-CR-47-EJD (N.D. Cal.), Dkts. 288 (approving forfeiture of interest in five real properties and application of sale proceeds to money judgment), 296 (staying forfeiture pending outcome of appeal); *see also, e.g.*, *United States v. Allen Fong*, 14-CR-527-VC (N.D. Cal.), Dkt. 572 (stipulated order of forfeiture contemplating sale of real property to satisfy $1.7 million money judgment).

III. Argument

A. Because Will's Resulting-Trust Theory Is A New Ground For Relief Asserted Outside The Statutory Deadline, It Should Be Denied On Its Face.

Third parties must file a petition within thirty days of the final publication of notice or the petitioner's receipt of notice, whichever is earlier. 21 U.S.C. § 853(n)(2). When applying § 853(n)(2), courts have denied leave to amend based on new grounds for recovery given the interest in a prompt resolution of criminal forfeiture proceedings and the express timing contemplated by the statute. *See, e.g.*, *United States v. Welch*, No. 23-3309, 2024 WL 4879474, at *1 (9th Cir. Nov. 25, 2024) (affirming district court's denial of leave to amend when claimant "failed to explain why he was previously unable to discover the information set forth in his motion to amend, and the district court properly characterized the facts described in that motion as new grounds for relief"); *United States v. Soreide*, 461 F.3d 1351, 1355 (11th Cir. 2006) ("[T]o the extent that . . . claims to the properties rest on her contention that she

held interests in those properties that were superior to the interests of Arne Soreide at the time of the acts giving rise to forfeiture, those claims are belated."); *United States v. Lamid*, 663 F. App'x 319, 324–25 (5th Cir. 2016) (affirming district court's denial of claimant's request to amend a claim to correct a defect under § 853(n)(3) because the 30-day deadline is mandatory, and the amended claim would have been filed outside of the 30-day period); *United States v. Klemme*, 894 F. Supp. 2d 1113, 1116–17 (E.D. Wis. 2012) (holding claimant could not file supplemental pleading after the 30-day deadline expired adding new grounds for recovery).

Allowing Will to amend and add a new basis for relief would nullify the 30-day deadline in 21 U.S.C. § 853(n)(2). It would incentivize dilatory tactics instead of requiring a claimant to initially state their basis for relief.

Here, Will has morphed her claim arguably four times to prevent the government from recovering. First, Will predicated her claim on the 2019 Deed of Trust. *See* Petition at 16 ("It is the 2019 recording of the deed of trust that gave Ms. Will an interest in the home superior to Ms. Will-Darnall . . . ."). Second, Will predicated her claim on unsecured loans made to Will-Darnall before the 2019 Deed of Trust. *See* Dkt. 83 at 11; *see also* Dkt. 91 3–4 (collecting cases holding an unsecured creditor lacks standing to assert a claim in the ancillary proceeding). Third, at the hearing, Will's counsel indicated he had received new evidence substantiating Will's ownership interest in the Belwood Property, though he never mentioned a resulting trust theory, nor has he provided any new evidence to the government. Fourth, Will now alleges a resulting trust theory.

Because Will's claim predicated on a resulting trust is a new ground for relief asserted outside the statutory deadline, it should be denied without consideration of its merit. *Cf., e.g.*, *United States v. Osborn*, 357 F. App'x. 109, 109 (9th Cir.) ("The district court correctly found that [the] petition was time-barred because it was filed 71 days after receiving notice of the preliminary order of forfeiture." (citing 21 U.S.C. § 853(n)(2); Fed. R. Crim. P. 32.2(c)(2).)); *United States v. Grossman*, 501 F.3d 846, 849–50 (7th Cir. 2007) (affirming dismissal of claim filed by lienholder 5 months after it received notice of the order of forfeiture); *United States v. Crew*, 704 F. App'x. 30, 32 (2d Cir. 2017) (affirming dismissal of claim where petitioner failed to file "within 30 days 'of the final publication of notice or his receipt of notice'"); *United States v. Alvarez*, 710 F.3d 565, 567–68 ns.10, 11 (5th Cir. 2013) (declining

to establish a more flexible rule for minor claimant and affirming dismissal of claim filed by minor's guardian on 74th day after receiving direct notice); *United States v. Marion*, 562 F.3d 1330, 1341 (11th Cir. 2009) ("It is also undisputed that [petitioner] filed her petition . . . well over three months after receiving her notice. Accordingly, [petitioner's] petition was untimely. *The district court therefore erred* in denying the government's motion to dismiss on grounds that [petitioner] filed her petition within thirty days that criminal judgment was entered against [the defendant]." (emphasis added)); *accord United States v. Lebnitz Tran*, 21-CR-269-WHO (N.D. Cal.), Dkt. 80 at 2 ("The deadline set in the statute [21 U.S.C. § 853] is firm; I am not aware of a case that has not enforced it.").

B. Because Will Has Not Alleged Will-Darnall Took Title To The Belwood Property While Will Was Intended To Hold The Beneficial Interest Of The Property, Will's Claim Is Defective As A Matter Of Law.

Under California law, there is a "strong presumption that the holder of the legal title owns the full beneficial interest in the property." *In re Schechtman's Est.*, 162 Cal. App. 2d 365, 369 (1958); *see also* Cal. Evid. Code § 662 ("The owner of the legal title to property is presumed to be the owner of the full beneficial title. This presumption may be rebutted only by clear and convincing proof.").

"A resulting trust arises by operation of law from a transfer of property *under circumstances showing that the transferee was not intended to take the beneficial interest*." *Lloyds Bank California v. Wells Fargo Bank*, 187 Cal. App. 3d 1038, 1042 (Ct. App. 1986) (citations omitted) (emphasis added). A "resulting trust is not founded on the simple fact that money or property of one has been used by another to purchase property." *Majewsky v. Empire Constr. Co.*, 2 Cal. 3d 478, 485 (1970).

To allege a resulting trust, "one must allege either that [they] intended to create a trust or that [they] intended that the [grantee or titleholder] should not have the beneficial interest in the property." *Altramano v. Swan*, 20 Cal. 2d 622, 628 (1942); *Hong Jun Xun v. Colvin*, No. C-13-2041-YGR, 2014 WL 1477532, at *10 (N.D. Cal. Apr. 15, 2014) ("In determining whether a resulting trust is created under California law, the ultimate issue is whether the circumstances show that the parties to a transfer of interest in property did not intend for the recipient to hold the beneficial interest despite holding the legal interest, that is, title."), *aff'd*, 651 F. App'x 658 (9th Cir. 2016). And "[n]o implication of a trust arises from a parent's purchase of property in the name of [their] child. Such a purchase is presumptively a gift or an advancement. *In re Schechtman's Est.*, 162 Cal. App. 2d at 369; *Quinn v.*

Reilly, 198 Cal. 465, 468 (1926) ("In short, the existence of the relationship of parent and child is a circumstance which *prima facie establishes the presumption of an advancement and thereby rebuts the presumption of a resulting trust*." (emphasis added)).

In *Lloyds Bank California v. Wells Fargo Bank*, the California Court of Appeal affirmed the trial court's determination that a brother (Herbert) did not hold title to a residence as the trustee of a resulting trust in favor of other family members. 187 Cal. App. 3d at 1046. There, a mother and father purchased a San Francisco residence in part with funds provided by several of their children. *Id.* at 1041. Following the father's death, the mother conveyed the residence in 1944 to two of her sons as joint tenants, Herbert and Lesly. *Id.* at 1041. In 1960, Lesly conveyed his interest in the residence to Herbert. *Id.* at 1042. After then, Herbert paid all real property taxes, fire insurance premiums, painting, plumbing, and house remodeling expenses. *Id*. At his death, Herbert's will left a life estate in the residence to his three remaining siblings and directed that upon the death of the last sibling, the residence should go to Herbert's wife. *Id.*

The trial court held that Herbert had not held the property as trustee for other family members under a resulting trust as asserted by the estates of two of his siblings. *Id.* at 1040–41, 43. In affirming the lower court's judgment, the Court of Appeal reasoned that the evidence established the mother gave the residence to Herbert and Lesly "as joint tenants unconditionally, and without any trust restrictions for the benefit of other family members." *Id.* at 1043. Nor was there any evidence that in transferring ownership of the residence to Herbert in 1960, Lesly intended to make Herbert a trustee either for Lesly or for the other children. *Id.* at 1043–44. For instance, Lesly did not assert orally or in writing that he intended to convey his interest in the property to Herbert conditionally or in trust. *Id.* at 1044. Nor did Lesly ever take any interest in the property during the 14 years between his conveyance of the property to Herbert and Lesly's death. *Id*. And, in the more than 20 years between that conveyance and Herbert's death, various house-related payments were made by Herbert. *Id*.

In contrast, in *Johnson v. Johnson*, 192 Cal. App. 3d 551 (Ct. App. 1987), the California Court of Appeal affirmed the trial court's determination that ownership of a Los Angeles home was subject to a resulting trust. *Id.* at 553. In 1977, a son convinced his parents to buy a home in his name so they could benefit from GI-loan financing only the son could obtain. *Id.* at 554. The parties (as in, the parents and

their son) understood at the time of the purchase that the parents would be the actual and beneficial owners of the property. *Id.* Indeed, the parents, not the son, moved into the home the same year. *Id*.

Similarly, from the beginning, both parents paid all the costs associated with maintenance of the home, except for $165 paid by the son for a lawn implant. *Id.* And, almost from the beginning, both parents pressed their son to transfer title of the property to them. *Id.* at 555. The son deferred. *Id.*

In 1981, the son separated from his wife and moved into the property and paid no rent to his mother, his then surviving parent. *Id*. In 1984, the son told his mother that he was going to sell the house and that she would have to move. She declined, asked her son again to transfer title to her, and sued for declaratory relief of a resulting trust. *Id.*

The trial court held that the son had held the property as trustee for his mother under a resulting trust. *Id.* at 1040–41, 43. In affirming the lower court's judgment, the Court of Appeal held that the son held the title of the property as a resulting trust for the parents, given the findings of the trial court based on clear and convincing evidence. *Id.* at 555–56.

Here, in a single paragraph of four sentences, Will alleges that a resulting trust was created for three reasons: (1) some amount of Will's money was used to pay for the Belwood Property in 2017 and 2018; (2) despite the presumption in California law, Will's payments were not a gift, as Will-Darnall "paid rent"; and (3) the 2020 quitclaim transferring title to the Belwood Property from the Will-Darnall Trust to Will is consistent with the obligation of Will-Darnall to convey the property to Will. Dkt. 104, at 17. The government disputes the factual basis of each of these reasons.

Even if construed in Will's favor, however, these allegations are insufficient as a matter of law. First, the fact that Will's money was allegedly used to purchase some portion of the Belwood Property is insufficient to establish the existence of a resulting trust. *Majewsky*, 2 Cal. 3d at 485. This is particularly so given the presumption that a parent's purchase of property in the name of their child is intended as a gift. *In re Schechtman's Est.*, 162 Cal. App. 2d at 369. Will does nothing to overcome that presumption.

Second, Will's claim that Will-Darnall "paid rent" is contradicted by documents attached to her amended claim in which the word "mortgage" repeatedly appears, unlike the word "rent." Dkt. 104-7. Thus, the Court need not—and should not—credit this claim. *Sprewell v. Golden State Warriors*, 266 F.3d 979, 990 (9th Cir.) ("[W]e are not required to accept as true conclusory allegations which are

contradicted by documents referred to in the complaint[.]"), *opinion amended on denial of reh'g*, 275 F.3d 1187 (9th Cir. 2001).

Third, while Will asserts that the 2020 quitclaim is reflective of a preexisting obligation of Will-Darnall to convey the Belwood Property to Will, the Court need not credit this assertion either, given the undisputed fact that the transfer occurred just five days after Will-Darnall poured fraud proceeds into the Belwood Property to "payoff" Will's loan. Ex. AA. If Will's claim is credited on this uncontested record, the $971,504.21 "payoff" Will-Darnall provided to Will on June 15, 2020, would constitute an advance rent payment for more than 200 years (assuming Will-Darnall's rent remained fixed at $4600 (Dkt. 104-7)). That too is absurd.

Even if the 2020 quitclaim were evidence of some intent other than an intent to hide money from the government, standing alone it cannot be considered sufficient to establish circumstances showing that in 2017 or 2018—that is, at least two years earlier—Will-Darnall and Will intended for the creation of a resulting trust for the benefit of Will in the Belwood Property.

Will of course cannot allege facts sufficient to support her fourth theory of relief because, among other reasons, by her own admission:

1. Will has never taken a beneficial interest in the Belwood Property at any point in time given she has resided in the Almaden Property continuously since 1995 (Dkt. 104-1 ¶ 5);
2. Will-Darnall has continuously taken a beneficial interest in the Belwood Property since obtaining full legal title of the property (*id.* ¶¶ 12–14);
3. Will-Darnall has continuously represented to the world that the Belwood Property is her, not Will's, separate property (*e.g.*, *id.* ¶ 17 (reflecting Will-Darnall obtained a loan secured by the Belwood Property after her divorce), Dkt. 104-5 at 5, 104-6 at 5–6); and
4. Will's own conduct—including securing a loan to Will-Darnall with the Belwood Property in 2019—reflects that she did not consider the Belwood Property her own.

Because Will has not alleged any circumstances (let alone plausible ones) showing that when Will allegedly paid money for the Belwood Property it was intended between her and Will-Darnall that Will, not Will-Darnall, take a beneficial interest in the Belwood Property, Will's new theory of relief must be dismissed with prejudice. *United States v. Gutierrez*, 734 F. App'x. 441, 446 (9th Cir. 2018)

(affirming denial of third-party petitions based on alleged resulting trust when claimants did not show "it was mutually intended that they would benefit from the property").

C. Because Will Lacks A Cognizable Legal Interest In The Belwood Property, She Lacks Standing To Assert A Constitutional Violation Concerning Its Forfeiture, Which Is Proportional To Will-Darnall's Crimes In Any Event.

The government incorporates by reference all arguments it previously asserted concerning Will's excessive fine argument. *See* Dkts. 77, at 24–25; 91, at 6–7.

CONCLUSION

The Court should grant the government's motion to dismiss the first amended petition, dismiss Will's claim with prejudice, and enter a final order of forfeiture including the following:

1. Up to $746,372.98 in equity resulting from the sale of the Belwood Property;
2. A money judgment of $1,406,594.56; and
3. All funds up to $625,952.60 on deposit in a Vanguard account ending in 6846, and all interest accrued since seizure of those funds.

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Respectfully submitted,

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/s/
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