

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION**

ARKANSAS STATE HIGHWAY COMMISSION

PLAINTIFF

V.

CASE NO. 2:22-CV-2110

**WIDMER PLACE, LLC;
FIRST NATIONAL BANK OF FORT SMITH;
THE CITY NATIONAL BANK OF FORT SMITH
n/k/a CADENCE BANK;
UNITED STATES OF AMERICA,
by and through PETER BUTTIGIEG,
Secretary of Transportation, Department of
Transportation;
ZACH JOHNSON, in his Official
Capacity as Sebastian County Tax Assessor;
STEVE HOTZ, in his Official Capacity as Sebastian
County Treasurer and Tax Collector; and
CERTAIN LANDS 36,660 SQUARE FEET, MORE OR LESS,
IN SEBASTIAN COUNTY, AND ANY PERSONS OR
ENTITIES CLAIMING AN INTEREST THEREIN**

DEFENDANTS

ORDER

Now before the Court is separate Defendant United States of America's Motion to Dismiss and to Set Aside Order of Possession (Doc. 11). During a hearing on the Motion on September 7, 2022, the Court found that the Sebastian County Circuit Court was without jurisdiction to grant an order of possession as to certain real property in Sebastian County, Arkansas, without first considering the leasehold rights of the United States. Accordingly, **IT IS ORDERED** that the order of possession filed at Document 2-4 is **VACATED** as to the United States, but otherwise shall remain in effect as to all other parties in this lawsuit.

IT IS FURTHER ORDERED that the United States' Motion (Doc. 11) is **GRANTED**, and the United States is **DISMISSED WITH PREJUDICE** pursuant to Federal Rule of Federal Procedure 12(b)(1). The Court lacks subject matter jurisdiction over claims against the United States due to sovereign immunity.

The Clerk of Court is **DIRECTED** to immediately **REMAND** the remaining claims and parties to the Circuit Court of Sebastian County, Arkansas, pursuant to 28 U.S.C. § 1447.

IT IS SO ORDERED on this 19th day of September, 2022.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE