

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JEANNE E. SCHERER, Chief Counsel (Acting)
JERALD M. MONTOYA, Deputy Chief Counsel
CAROL QUAN, Assistant Chief Counsel
LISA A. BRAHAM, Assistant Chief Counsel
STEVEN J. DADAIAN, Assistant Chief Counsel
ERICK L. SOLARES, Assistant Chief Counsel

100 South Main Street, Suite 1300
Los Angeles, California 90012-3702
Telephone: (213) 687-6000
Facsimile: (213) 687-8300

MARK BERKEBILE, Deputy Attorney, Bar Number 258327
Attorneys for Plaintiff

JS-6

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

THE PEOPLE OF THE STATE OF CALIFORNIA, acting by and through the Department of Transportation,

Plaintiff,

-vs-

JAMES E. DAMRON, et al.,

Defendants.

Case No. 5:14-CV-02408-R-SP

JUDGMENT IN CONDEMNATION

Plaintiff, The People of the State of California, acting by and through the Department of Transportation (“Plaintiff”) and defendants James E. Damron and Sunny L. Damron, Trustees of the Damron Family Trust Dated January 11, 2002 (“Damrons”), and United States of America (erroneously sued as United States Department of the Treasury – Internal Revenue Service), individually and/or through their respective counsel of record, have stipulated that Judgment in Condemnation as to the real

1 property, or interests in real property, described in Plaintiff's complaint filed in this
2 proceeding as Parcels 22482-1 and 22482-2 may be entered herein among these parties.
3 The parties have waived Statement of Decision and Notice of Entry of Judgment. The
4 parties have also waived and discharged their respective litigation expenses, attorney's
5 fees, and expert witness fees.

6
7 **GOOD CAUSE APPEARING, IT IS HEREBY ORDERED, ADJUDGED AND**
8 **DECREED:**

9 1. On January 27, 2014, Plaintiff filed the subject civil complaint in eminent
10 domain seeking a partial taking of real property for state highway purposes. The
11 property is located at 18858 Cajon Boulevard, San Bernardino, CA 92407 (hereinafter
12 "Subject Property"). The Subject Property is described as that portion of Lots 22 and
13 23, Tract No. 3158, in the County of San Bernardino, State of California, as shown on
14 the map recorded in Book 42 of Maps, Page 80, records of said County.

15 2. Plaintiff filed suit to acquire a portion of the Subject Property, identified as
16 Caltrans Parcel Nos. 22482-1 and 22482-2, which consists of a fee acquisition of 8,738
17 square feet and a temporary construction easement of 2,000 square feet, respectively.
18 These parcels are being acquired in connection with a joint project by Plaintiff and San
19 Bernardino Associated Governments to widen and reconstruct the I-15/I-215
20 interchange in San Bernardino, California. On December 11, 2013, the California
21 Transportation Commission, at a meeting held in Riverside, California, passed and
22 adopted Resolution of Necessity No. C-21128, declaring that the property sought to be
23 taken in this proceeding is necessary for state highway purposes. On
24 January 31, 2014, Caltrans deposited with the State Treasurer the sum of \$47,100
25 representing its estimate of the probable amount of compensation for the taking of the
26 Subject Property.

27 3. On May 28, 2014, Plaintiff obtained possession of Parcels 22482-1
28 and 22482-2 pursuant to order of the state court.

1 4. On August 28, 2012, Defendant, the United States of America
2 recorded a Notice of Federal Tax Lien in the Office of the County Recorder of San
3 Bernardino County, California, as instrument number 2012-0348699. On August 28,
4 2012, the United States of America recorded a second Notice of Federal Tax Lien in the
5 Office of the County Recorder of San Bernardino County, California, as instrument
6 number 2012-0348700.

7 5. Defendants James E. Damron and Sunny L. Damron, as trustees of the
8 Damron Family Trust Dated January 11, 2002 (hereinafter “the Damrons”) filed an
9 answer to the state court complaint prior to the removal of the action. The Damrons do
10 not object to the partial taking of the Subject Property, but have asserted claims for
11 compensation for the taking and for severance damages to the remainder.

12 6. On November 21, 2014, the United States of America removed Plaintiff’s
13 state court action to this Court. [Dkt. 1.] On December 12, 2014, the United States
14 filed an amended answer and asserted a claim against the entire amount of proposed
15 condemnation proceeds. [Dkt. 11.] The United States’ claim is based upon Defendant
16 James E. Damron’s unpaid federal income tax liabilities for tax years 2006 and 2009.
17 Pursuant to 26 U.S.C. §§ 6321 and 6322, liens for James E. Damron’s unpaid federal
18 income tax liabilities for tax years 2006 and 2009 arose in favor of the United States
19 against all property and rights to property owned by Mr. Damron.

20 7. The United States and the Damrons, individual and on behalf of the
21 Damron Family Trust Dated January 11, 2002, stipulate that the liens have continued
22 without interruption since their date of assessment and have not been released or
23 discharged. As of April 30, 2015, the United States and the Damrons further stipulate
24 that Mr. Damron’s outstanding tax liabilities for tax years 2006 and 2009 are in excess
25 of \$47,100.00.

26 8. As a result, the United States and the Damrons agree that the United
27 States’ liens have priority over any condemnation proceeds paid in connection with this
28 judgment

1 9. The total principal sum to be paid in this proceeding and for the acquisition
2 of Parcels 22482-1 and 22482-2 as described in Plaintiff's complaint is \$47,100,
3 inclusive of costs, interest, attorneys' fees, and litigation expenses. This amount shall
4 be paid to defendant United States of America by withdraw of funds from Plaintiff's
5 deposit of probable compensation on January 31, 2014, pursuant to Code of Civil
6 Procedure section 1255.010. Upon receipt of the original or a certified copy of this
7 Judgment, the California State Treasurer shall issue a draft for funds payable to "United
8 States Department of Treasury" in the sum of \$47,100.00. This payment shall be
9 mailed to Benjamin L. Tompkins, Assistant United States Attorney, United States
10 Attorney's Office, Tax Division, 300 North Los Angeles Street, Room 7211, Los
11 Angeles, California 90012.

12 10. The payment made to defendant United States of America in the amount
13 specified above shall be in full payment for the defendants' interest in Parcels 22482-1
14 and 22482-2 and damages with respect to Parcels 22482-1 and 22482-2 caused by any
15 or all of the following: (a) the acquisition of Parcels 22482-1 and 22482-2; (b) the
16 severance of the remainder from Parcels 22482-1 and 22482-2, the part being acquired;
17 and (c) the construction and use of the project for which the Parcels 22482-1 and 22482-
18 2 is being is taken in the manner proposed by plaintiff. These payments shall be in full
19 payment for all of this defendant's claims of just compensation arising out of the
20 condemnation of Parcels 22482-1 and 22482-2, including, without
21 limitation, defendant's claims for the fair market value of the real and personal property
22 taken, severance damages, loss of rents, loss of business goodwill, precondemnation
23 damages, and all damages of every kind and nature suffered or to be
24 suffered by reason of Plaintiff's acquisition of Parcels 22482-1 and 22482-2, and the
25 construction and use of the project in the manner proposed.

26 11. AT&T California, successor in interest to The Pacific Telephone and
27 Telegraph Company, having on May 1, 2014, disclaimed any interest in Parcels
28

1 22482-1 and 22482-2 pursuant to Code of Civil Procedure section 1250.325, is not
2 entitled to any compensation in this proceeding. A true and correct copy of the
3 AT&T California's disclaimer is attached hereto as Exhibit A.

4 12. Upon payment of the above-specified sums of money to, or for the benefit
5 of, defendant United States of America, Parcels 22482-1 and 22482-2 shall be
6 condemned to Plaintiff and as against defendants James E. Damron and Sunny L.
7 Damron, Trustees of the Damron Family Trust Dated January 11, 2002, and United
8 States of America, AT&T California, successor in interest to The Pacific Telephone and
9 Telegraph Company for state highway purposes, in fee simple absolute, unless a lesser
10 estate is described, and all interests of defendants James E. Damron and Sunny L.
11 Damron, Trustees of the Damron Family Trust Dated January 11, 2002, and United
12 States of America, AT&T California, successor in interest to The Pacific Telephone and
13 Telegraph Company in and to these parcels shall be terminated.

14 13. The purpose for which Parcels 22482-1 and 22482-2 are sought to be
15 condemned is a public use authorized by law, and the taking of these parcels is
16 necessary for this use.

17 14. Plaintiff having taken possession of Parcels 22482-1 and 22482-2 on May
18 15, 2014, free and clear of all federal and state liens, including all taxes, assessments,
19 penalties and costs which are a lien on these parcels and which are apportioned to that
20 portion of the fiscal year after this date, are hereby discharged pursuant to 28 U.S.C.
21 section 2410 and California Revenue and Taxation Code section 5081 et. seq.

22
23 DATED: August 13, 2015



24
25
26 MANUEL L. REAL
27 UNITED STATES DISTRICT JUDGE
28