

CALIFORNIA COURT OF APPEAL, THIRD APPELLATE DISTRICT

Bernstein v. Sebring

Bernstein · No. C098443 · Decided December 15, 2025

SUMMARY

The California Court of Appeal affirmed a judgment enjoining the defendant from paving a gravel-road easement over the plaintiff’s property. The court held that the second action did not improperly split the plaintiff’s claims because it concerned a distinct later episode, and that whether paving was within the easement’s secondary rights depended on the facts and reasonableness of the proposed use. The trial court’s finding that paving was not reasonably necessary for safe and convenient travel was not challenged on appeal.

CASE DETAILS

COURT	California Court of Appeal, Third Appellate District
WRITING FOR THE COURT	Robie, J.; Hull, Acting P. J.; Feinberg, J.
JURISDICTION	California Court of Appeal, Third Appellate District
DECIDED	December 15, 2025
DOCKET	C098443
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment after a court trial in an action for declaratory relief and a permanent injunction concerning the scope of a road easement. The trial court denied defendant's motion for judgment on the pleadings, found for plaintiff after trial, and enjoined defendant from paving the driveway.
STANDARD OF REVIEW	The denial of a motion for judgment on the pleadings is reviewed independently to determine whether, based on the pleadings and judicially noticeable matters, the moving party was entitled to judgment as a matter of law. The scope and reasonableness of secondary easement rights present factual questions, and factual findings are reviewed for substantial evidence; defendant did not challenge the trial court's factual finding on appeal.
PRECEDENTIAL VALUE	Published and certified for publication; precedential under California law.

PARTIES

Tim Sebring, Defendant, Cross-complainant and Appellant v. Scot Bernstein, Plaintiff, Cross-defendant and Respondent

TOPICS

easements

motion for judgment on the pleadings

res judicata

injunctions

appellate procedure

PRACTICE AREAS

real estate

civil procedure

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether plaintiff's second action seeking to prevent paving of the easement improperly split a cause of action previously litigated in the parties' first action.
2. Whether defendant's road easement necessarily included, as a matter of law, a secondary right to pave the gravel roadway.
3. Whether the trial court applied the correct standard in determining whether paving was a permissible secondary easement improvement.

HOLDINGS

1. The second action did not improperly split plaintiff's cause of action because it concerned a distinct episode and a new threatened harm—paving the easement—that was not alleged in the first action.
2. A road easement does not necessarily include, as a matter of law, a secondary right to pave a gravel roadway.
3. The trial court correctly determined that the relevant inquiry was whether paving was reasonably necessary to make the easement available for safe and convenient vehicular travel, not merely whether a paved surface would be more convenient than a gravel surface.

KEY QUOTATIONS

“Finding otherwise could bar plaintiff from bringing any future suits involving the easement even if defendant threatens new types of harm to plaintiff’s property rights.” (at 4)

“We reject defendant’s assertion his road easement includes the secondary right to pave the gravel road as a matter of law.” (at 5)

“What matters is whether the proposed improvement is necessary for the convenient use of the easement.” (at 6)

FACTUAL BACKGROUND

The parties own adjoining properties in the same subdivision. Defendant's property benefits from an ingress-and-egress easement over plaintiff's property, including a 244.5-foot gravel or dirt roadway used as defendant's driveway. After a prior action concerning defendant's clearing trees and performing construction on the

easement, defendant announced an intent to pave the gravel roadway. The trial court found that paving was not reasonably necessary to make the easement available for safe and convenient vehicular travel.

PROCEDURAL HISTORY

The parties previously litigated defendant's unauthorized clearing, excavation, and construction activities on the easement, resolving that action through a partial settlement and an October 2018 judgment. While the first action was pending, plaintiff filed this separate action after defendant announced an intent to pave the gravel portion of the easement. The trial court denied defendant's motion for judgment on the pleadings, conducted a court trial in June 2022, found that paving was not reasonably necessary for safe and convenient vehicular travel, enjoined paving, and entered judgment for plaintiff. The Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Ventura Coastal, LLC v. Occupational Safety & Health Appeals Bd. (2020) 58 Cal.App.5th 1, 14
- Mycogen Corp. v. Monsanto Co. (2002) 28 Cal.4th 888, 904
- Bay Cities Paving & Grading, Inc. v. Lawyers' Mutual Ins. Co. (1993) 5 Cal.4th 854, 860
- Duncan v. Kihagi (2023) 96 Cal.App.5th 703, 709
- Planning & Conservation League v. Castaic Lake Water Agency (2009) 180 Cal.App.4th 210, 227-228
- Dolnikov v. Ekizian (2013) 222 Cal.App.4th 419, 428-430
- Ballard v. Titus (1910) 157 Cal. 673, 681