SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

THE PEOPLE OF THE STATE OF CALIFORNIA, EX REL. XAVIER BECERRA, ATTORNEY GENERAL OF THE STATE OF CALIFORNIA, Plaintiff, **v.** **SAUSALITO MARIN CITY SCHOOL DISTRICT,** Defendant.	No. CGC-19-578227 **ORDER DENYING WILLOW CREEK ACADEMY'S MOTION TO INTERVENE AND DENYING MOTION TO SET ASIDE JUDGMENT**

INTRODUCTION

On August 8, 2019, the People of the State of California, acting through Attorney General Xavier Becerra, filed a complaint for injunctive relief against the Sausalito Marin City School District (the District), and simultaneously entered into a stipulation for entry of a final judgment and permanent injunction (the Judgment), which was entered on the same date. Willow Creek Academy, a public charter school located within the District (WCA), now seeks leave to intervene in the action and separately moves to set aside the Judgment. For the following reasons, the Court denies both motions. The City of Sausalito's application to file an *amicus curiae* brief in support of WCA's motion to set aside the judgment is granted.

FACTUAL AND PROCEDURAL BACKGROUND

Following an investigation from 2016 to 2018, the California Attorney General's Office determined that the District had established and maintained a racially segregated school. On August 8, 2019, the Attorney General and the District stipulated to the entry of a comprehensive desegregation plan to remedy the alleged racial inequalities at that school, Bayside Martin Luther King Jr. School (Bayside MLK). The stipulated Judgment includes a multi-year desegregation plan with different benchmarks that the District must meet in order to show progress towards or come into compliance with California law, and provides for compensatory remedies for students who were harmed by the unlawful segregation allegedly caused by the District. It also provides for appointment of a qualified third-party monitor who is charged with evaluating the District's compliance with the terms of the Judgment and reporting his or her findings to the District and the Attorney General. The Judgment does not directly bind WCA or impose any obligations on it, nor does it interfere with any rights WCA may have as a charter school in its relationship with the District.

DISCUSSION

I. WCA IS NOT ENTITLED TO INTERVENE.

"The right to intervention may be permissive or unconditional. It is permissive when a person has an interest in the matter in litigation, or in the success of either of the parties, or an interest against both of the parties. (Code Civ. Proc., § 387, subd. (a).) It is unconditional when the person seeking intervention claims an interest relating to the property or transaction that is the subject of the action, the disposition of the action may impair or impede the person's ability to protect that interest, and the interest is not being adequately represented by existing parties. (Code Civ. Proc., § 387, subd. (b).)" (*Mylan Laboratories Inc. v. Soon-Shiong* (1999) 76 Cal.App.4th 71, 77-78.) WCA asserts it is entitled to intervene on both grounds. The Court disagrees. At most, the Judgment implicates WCA's indirect or consequential interest in receiving discretionary funds from the District to which it has no legally enforceable right. The transaction at issue does not *directly* affect the rights of WCA or its students, and the interests that WCA seeks to vindicate are purely consequential. Those consequential interests are insufficient to entitle it to intervene, either as of right or on a permissive basis. Further, WCA's permissive intervention would be inappropriate because it would enlarge the issues in the case and jeopardize the timely implementation of the Judgment, and because the reasons it has offered for intervention do not outweigh the existing parties' opposition or the public interest.

A. Intervention As Of Right

WCA is not entitled to intervention as of right primarily because it lacks a sufficient "interest relating to the property or transaction which is the subject of the action." (Code Civ. Proc., § 387(a).) "The 'interest' mentioned in section 387 which entitles a person to intervene must be 'direct and not consequential' [citation]; it must be of such direct and immediate character that the intervener will either gain or lose by the direct legal operation and effect of the judgment that may be rendered." (*Socialist Workers etc. Committee v. Brown* (1975) 53 Cal.App.3d 879, 891; *Jersey Maid Milk Products Co. v. Brock* (1939) 13 Cal.2d 661, 663 [where

any judgment rendered in action seeking injunction would have no binding effect upon interveners and would in no way directly affect them, they had no direct interest but only a mere consequential interest in matter in litigation and were not entitled to intervene].) WCA fails to meet this key requirement. (See, e.g., *California Physicians' Service v. Superior Court* (1980) 102 Cal.App.3d 91, 95-99 [health care insurer had no absolute right to intervene in its subscriber's personal injury action, despite mandatory contractual requirement that subscriber provide insurer with a lien on any recovery from third party tortfeasors].)

WCA contends that it has a direct interest in the action because of the potential adverse effect on it of several different provisions of the Judgment. None, however, rises to the level of a direct and immediate interest that would entitle WCA to intervene as of right.

First, WCA complains that the Judgment "expressly prohibits discretionary allocation of resources" to it until a monitor is appointed. (Mot. to Intervene at 2.) Section VII of the Judgment provides, "In the period after the Judgment but prior to retention of the Monitor: The District shall not provide Discretionary Funds to a Non-District Operated School." (Judgment, § VII.K.1.)[1] The term "Discretionary Funds," in turn, is defined as "funding allocations beyond the amount required by California Education Code sections 47612, 47613, 47635, and 47636 and other California or Federal Law." (*Id.*, Attachment A at 23 ¶ 1.F.) Further, although the Judgment prohibits the District from entering into "agreements to provide services, facilities, or properties to In-District Students attending a Non-District Operating School" unless certain conditions are met, it expressly exempts from that prohibition legally-required agreements for facilities or services. (§ VII.K.4, at 17.) Thus, as discussed below, the Judgment expressly preserves WCA's entitlement to legally-mandated funding and other resources. In any event, the parties agree that the monitor has already been retained by the District, so this provision has no continuing effect on WCA and the argument is moot.

[1] It is undisputed that WCA is a Non-District Operated School as defined in Attachment A to the Judgment. (Att. A, §§ I.M, I.U.) Unless otherwise indicated, all further citations to sections with Roman numerals are to provisions of the Judgment or its attachments.

Second, WCA complains that the Judgment prohibits the District from making discretionary allocations of resources to it if any requirement imposed on the District is not timely satisfied, and if the District fails to achieve certain geographically specified attendance targets within five years. (Mot. to Intervene at 2.) Again, however, the Judgment does not restrict the District from providing WCA with funding required by state or federal law, or resources that are lawfully mandated. It only restricts Discretionary Funds, which is defined as a funding allocation not required by state or federal law. As the parties explain, the District is a "basic aid" district, meaning that the District's public funding comes from its share of local property tax revenues rather than the minimum per-student amount allocated from the State to other school districts. As a result, the District's public funding greatly exceeds what it would receive if it were a "revenue limit" or "state aid" district. In 2018-2019, for example, the Court is informed that the District received more than $3.4 million in excess of what such other districts receive. Critically, however, the District is under no legal obligation to disburse any portion of those "excess funds" to WCA. Rather, WCA has a right to receive only the statutorily-mandated per-pupil amount under the Local Control Funding Formula (LCCF). (See *California School Boards Assn. v. State of California* (2018) 19 Cal.App.5th 566, 577 [explaining that "the LCFF uses a school district's 'prior revenue limit and categorical funding as the base and adds additional funding for high concentrations of English learners and economically disadvantaged students.'"].)

Under the Charter Schools Act, Educ. Code §§ 47600-47663, charter schools such as WCA are "'public schools funded with public money but run by private individuals or entities rather than traditional public school districts.'" (*Anderson Union High School Dist. v. Shasta Secondary Home School* (2016) 4 Cal.App.5th 262, 267-268.) For purposes of LCFF grant eligibility, charter schools are regarded as separate school districts. (Educ. Code § 47612(c) ["A charter school shall be deemed to be a 'school district'" for a variety of purposes].) Like public schools, charter schools are "financed by public education funds," and "receive funding based on the number of students they recruit and retain at the expense of the traditional system." (*Wells v. One2One Learning Foundation* (2006) 39 Cal.4th 1164, 1203-1204.) Because charter schools, as nongovernmental entities, do not have taxation powers, charter schools receive a portion of their

LCFF grant funding from school districts.[2] The Charter School Act mandates that a "sponsoring local educational agency" (that is, a school district) "shall annually transfer to each of its charter schools funding in lieu of property taxes equal to the lesser of" (1) the "average amount of propertx taxes per unit of average daily attendance, including average daily attendance attributable to charter schools, received by the local educational agency, multiplied by the charter school's average daily attendance," or (2) the "local control funding formula grant funding," calculated in the same fashion. (Educ. Code § 47635(a)(1),(2).)[3] Charter schools authorized by a revenue limit district receive allocations pursuant to the first of these subparagraphs, and charter schools (such as WCA) authorized by basic aid districts receive in lieu property tax funding pursuant to the second subparagraph.[4] Beyond that, however, the school district is not legally obligated to fund charter schools within its geographic boundaries. Rather, the Charter School Act authorizes charter schools to "negotiate[e] with a local educational agency for a share of operational funding from sources not otherwise set forth in this chapter," specifically including "Ad valorem property taxes received by a school district which exceed its local control funding formula entitlement" and "'Basic aid' received by a school district . . . ." (Educ. Code § 47636(a)(4),(5).)

At its core, WCA's primary interest in the litigation and the Judgment is a financial interest in having the District exercise its discretionary power to allocate funds to WCA rather than to the desegregation obligations imposed on it by the Judgment. In particular, WCA is interested in receiving some portion of "excess funds" available to the District for expenditure on an annual basis. (See Mot. to Intervene at 12 [asserting that the Judgment "potentially deprives WCA of funding, services, and facilities"].) As WCA itself expressly concedes, however, that is an

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[2] Charter schools may also apply for operational funding under state or federal categorical programs. (Educ. Code § 47636.) Such funding is not at issue here.

[3] Section 47612 provides guidance as to the proper calculation of average daily attendance in charter schools. (Educ. Code § 47612(b), (d).)

[4] In addition, a school district or other chartering authority may charge for the actual costs of supervisorial oversight of a charter school, subject to certain limits and conditions. (Educ. Code § 47613.)

"indirect" and consequential interest, not a direct interest. (See Mot. to Set Aside Judgment at 10 ["The Judgment also *indirectly* impacts WCA's interests by requiring the District to spend hundreds of thousands or even millions of dollars over the term of the Judgment to pay for experts, counseling programs, monitoring costs, scholarship programs, etc. [Citations.] Because the District's resources are limited in any given year and there are only two schools in the District, every dollar directed through the Judgment is funding that the District cannot allocate to WCA's roughly 200 high-need students." (emphasis added)].) While the Judgment may well have an indirect effect on WCA's funding by constraining the District's discretion in the future to donate excess funds to WCA, that is a consequential effect of the Judgment, not a direct one.[5]

WCA's position is also belied by its own complaints regarding past District funding practices that long predate the Judgment. WCA asserts that since it was founded in 2001, "it has consistently been funded at per-student levels far below that of the traditional school(s) within the District. [Citation.] Some years the District shared a fraction of its excess funding and some years it shared none, but the lion's share of that excess was always allocated to Bayside MLK." (Mot. to Set Aside Judgment at 7.) Indeed, WCA complains that the District's 2019-2020 budget, which was adopted in June 2019—two months *before* the Judgment was entered into—allocates the entirety of the District's basic aid excess of $3.4 million to Baywide MLK and none of it to WCA. (*Id.* at 6; Weinsheimer Decl. ¶ 12; see also Dist. Opp. at 7 ["Earlier this year, the District elected not to donate funds to WCA."].) This further confirms the key point: WCA's primary dispute with the District relates to its desire to receive *discretionary* funds from the District to which it has no statutory or other entitlement. That interest—more accurately described as a hope or expectancy—is at most an indirect or consequential interest that cannot give rise to a mandatory right to intervene.

[5] WCA's argument sweeps far too broadly to be accepted as a legitimate basis for intervention, whether mandatory or permissive. Any decision by the District to commit funds for *any* purpose, such as the resolution of a personal injury lawsuit, necessarily would have the same indirect effect, by reducing the funds available to the District's Board for discretionary use.

Third, WCA contends that it has a direct interest in the litigation because the Judgment requires that WCA be displaced from its campus if the specified targets are not achieved within five years. (Mot. to Intervene at 2.) In the first place, the contention is inaccurate. Rather, the Judgment provides that if, five years after implementation of a comprehensive plan, the Phase I goals are not met, the District shall relocate all of Baywide MLK's K-4 instruction to the Sausalito campus where WCA is now housed. (§ III.E.1.) It does not require that WCA be "displaced," and indeed the Court understands that Bayside Elementary and WCA were previously co-located at the Sausalito campus. In any event, WCA has no property interest in the facilities it currently occupies, which are owned by the District. (Educ. Code § 47614(b) ["Facilities provided . . . shall remain the property of the school district."].)

In any event, WCA's speculation that it may be forced to move in five years if the District fails to comply with its obligations under the Judgment is hardly a "direct and immediate" interest warranting intervention. As the District points out, for that to happen, the Judgment provides that the following events must occur first:

(1) The District must develop a Comprehensive Plan to implement a K-8 education program (§ II.F), based on an assessment of community needs and requests (II.A) and expert recommendations (§§ II.B and II.C);

(2) The Comprehensive Plan must be presented at an open board meeting, with an opportunity for comments by the public and by the Attorney General, who may object to the proposed plan and require the District to adjust it and then present the adjusted Comprehensive Plan at a second open board meeting (§§ II.G through II.K);

(3) The District must implement the Comprehensive Plan no later than July 1, 2020 (§ II.L); and

(4) Five years after implementation of the Comprehensive Plan, the Phase I Goal, as defined, is not met (§§ III.A, III.E).

Further, for WCA to be displaced necessarily assumes that at that time, it would still be operating in its current, District-owned facilities, which it asserts are currently in urgent need of repair or renovation. As the District points out, the need to renovate or construct improvements on the

Sausalito campus might require displacement of WCA from those facilities, independent of the Judgment, or alternatively might provide sufficient additional space, depending on future enrollment figures in both schools, that no move would be necessary, even assuming the District fails to achieve the five-year benchmarks. As these numerous imponderables make clear, the bare possibility that WCA may be required to move from its current facility at some point years in the future is not a direct and immediate interest entitling it to intervene.

Fourth, WCA contends that it is entitled to intervene because the Judgment purportedly subjects it to direct unlawful oversight by the Monitor. However, WCA's position is at odds with the plain language of the Judgment, as well as with the record before the Court.

The Judgment provides that it "shall be overseen by a qualified third-party monitor," who "shall be provided access to information and documents to ensure compliance and whose costs and expenses shall be paid for by the District." (§ VII.A.) Similarly, the Judgment states that the District "shall allow and facilitate the Monitor's reasonable access to the District's physical facilities, officers, employees, and related records, reports, and documents." (§ VII.H.) That includes access relating to WCA:

> The District shall assist the Monitor in obtaining any information related to the operation of any charter school authorized by the District. The Monitor may issue a report to the District and to the Attorney General's office on any instance in which the Monitor believes the charter school has violated state law, its charter, or has enacted a policy that may hinder the effectiveness of the Judgment. The District shall make best efforts to ensure the charter school complies with the Monitor's legal requests.

(§ VII.J.)

Section VII of the Judgment, entitled "Monitor and Oversight," confers several reporting and recommendation roles on the Monitor. Thus, "[a]t the sole direction of the Attorney General's office, the Monitor shall provide the Attorney General's office with an annual report on the status of compliance with the Judgment," including the status of implementation of the Comprehensive Plan and the District's progress towards achieving the Phase 2 Goal. (§ VII.C.) In addition, certain actions by the District must be "proposed to and evaluated by the Monitor," including any change of staff certification requirements, reduction in staffing levels, acquisition

or transfer of real property, and monetary expenditures over stated thresholds, including a "[g]rant or agreement to provide services, facilities, or property to a Non-District Operated School" likely to exceed $100,000. (§ VII.G.) Once the Monitor or the Monitor's designee has made an "evaluation of compliance with the terms of the Judgment" of such a proposed action, the District "may propose a set of actions to the Monitor to be evaluated jointly for their net effect. If the Monitor determines that the proposed action or set of actions will likely hinder achievement of the Phase 2 Goal or is in violation of the terms of the Judgment, the Monitor shall make a report supporting that determination to the District and the Attorney General's office." (§ VII.D.) Similarly, the Monitor "may determine if the District has committed an action or set of actions that will likely hinder achievement of the Phase 2 Goal or is in violation of the terms of the Judgment." (§ VII.F.) However, there is an exception for "[r]easonable and typical actions otherwise requiring Monitor determination taken in response to an Emergency Situation," which may be taken immediately without such an evaluation. (§ VII.E.)[6] If necessary, the Monitor shall make a "post-hoc evaluation" of such an action to determine whether the emergency response was reasonable and typical. (*Id.*) Finally, when the Phase 2 Goal is met, "the District shall request that the Monitor issue a report to the Parties" describing the conditions establishing that the Phase 2 Goal was met; conditions, policies, or actions that aided or hindered the District in meeting that goal; and "[r]ecommendations for future District actions or policies that could reduce racial and ethnic segregation within the District." (§ VII.L.)

WCA asserts that the Judgment adversely affects its interests because it purportedly explicitly empowers the Monitor to "approve" all of the enumerated actions and to "reject" proposed budgetary and other actions. (Reply ISO Mot. to Intervene at 8.) As the language quoted extensively above makes clear, the Judgment does no such thing. Rather, as its plain language makes clear, it confers upon the Monitor the authority to "evaluate" proposed actions, to make recommendations, and to issue various reports to the parties. Contrary to WCA's position,

[6] An Emergency Situation is defined by reference to Gov. Code §§ 8558 and 17592.72, or "any other condition which presents a clear and present danger to the life, safety, or health of pupils or school personnel." (Att. A, § I.H.)

however, nothing in the Judgment confers any decision-making authority on the Monitor. Nor does the Judgment "vest[] the Monitor with an effective oversight role over WCA not recognized in law," as WCA also contends. (Reply at 9.) Rather, again, the District is directed to assist the Monitor in gaining access to information regarding WCA's operations, and is empowered only to issue a report to the District and to the Attorney General's office if it believes the charter school has violated state law, its charter, or has enacted a policy that may hinder the effectiveness of the Judgment. As WCA concedes, the District, as its "chartering authority," has—and, under the Judgment, retains—authority to ensure that WCA complies with all reporting requirements, to monitor its fiscal condition, and ultimately to revoke its charter. (Educ. Code § 47604.32.) The Judgment merely authorizes the Monitor to assist the District in exercising those oversight powers, without divesting the District of its statutory authority.

On reply, WCA submitted a supplemental declaration purporting to show that the Monitor had exercised a "veto" over the District's allocation to it of some $250,000 in funding for the current academic year, which was an amount the District had previously budgeted but is not required to donate to WCA due to lower than projected enrollment figures. (Supp. Weinsheimer Decl. ¶¶ 8-10 & Ex. 22.) However, the District shows that, in fact, the District's budget advisory committee recommended that the District stop voluntarily allocating additional resources to WCA in March 2018—six months before the Attorney General first accused the District of operating a racially segregated school. (Garcia Supp. Decl. ¶ 4.) Moreover, while the District Superintendent discussed the request for additional funding with the Monitor because the Judgment requires her evaluation of such a proposed allocation, the Monitor's *approval* of such an allocation was not required. (*Id.* ¶ 11.) Under the Judgment, the District's Board of Trustees retains its decision-making powers over District affairs. (*Id.* ¶ 12.)[7]

[7] WCA also contends that the Judgment excludes it from participating in the District's development of the Comprehensive Plan. It does not. The Judgment provides that the District Superintendent shall form a Desegregation Advisory Group "to provide comments to the District on education programs and related programs within the District and issues relating to racial segregation within the District, and to make recommendations to the District to reduce racial segregation within the District and improve the District's education program." (§ I.A.) The Superintendent shall invite representatives from the following categories of persons or entities, "though members of the Group are not limited to the following": students, parents of students, (continued...)

B. Permissive Intervention

For closely similar reasons, the Court denies WCA's request for permissive intervention. A trial court has "broad discretion" in determining whether to permit intervention. (*City of Malibu v. California Coastal Comm.* (2005) 128 Cal.App.4th 897, 902.) "The court has *discretion* to permit a nonparty to intervene in litigation pending between others, provided: [1] The nonparty has a *direct and immediate interest* in the litigation; and [2] The intervention will *not enlarge* the issues in the case; and [3] The reasons for intervention outweigh any opposition by the existing parties." (*Id.*, quoting *Truck Ins. Exchange v. Superior Court* (1997) 60 Cal.App.4th 342, 346 (emphasis in original; internal quotation marks omitted); accord, *California Physicians' Service v. Superior Court* 102 Cal.App.3d at 95 ["the intervener's interest in the litigation must be direct and immediate rather than consequential, the issues must not be enlarged by the intervention and the reasons for intervention must outweigh the rights of the original parties to litigate in their own way."].) None of these factors is satisfied here.

First, WCA does not have a direct and immediate interest in the litigation. "To support permissive intervention, it is well settled that the proposed intervener's interest in the litigation must be direct rather than consequential, and it must be an interest that is capable of determination in the action... An interest is consequential and thus insufficient for intervention when the action in which intervention is sought does not directly affect it although the results of the action may indirectly benefit or harm its owner.'" (*City and County of San Francisco v. State of California* (2005) 128 Cal.App.4th 1030, 1037.) "The proposed intervener's "interest in the matter in litigation ... must be of such a direct and immediate character that [he] will either gain or lose by the direct legal operation and effect of the judgment.'" (*Fireman's Fund Ins. Co. v. Gerlach* (1976) 56 Cal.App.3d 299, 303.) As discussed in detail above, WCA will not gain or

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(...continued)
public administrators and teachers, community organizations, the Marin County Office of Education, Housing Authority, and Department of Health and Human Services, the City of Sausalito, and the Marin City Community Services District. (§ I.C.) That list does not exclude WCA, and indeed the District's counsel represented at the hearing that WCA has representatives on that Group.

lose by the direct legal operation and effect of the judgment; rather, its interest is an indirect one in the District's discretionary allocation of its funds.

Second, WCA's intervention unquestionably would enlarge the issues in the underlying desegregation. WCA made it clear in its opposition and at the hearing that although it concedes that Baywide MLK is an unlawfully segregated school, it takes issue not only with the relief mandated by the stipulated Judgment, but with its key factual underpinnings, with the adequacy of the Attorney General's investigation, and with the existing parties' understanding of the history and causes that gave rise to that unconstitutional condition. (See, e.g., Mot. to Intervene at 7 [asserting that "a basic factual premise of the Complaint and Judgment . . . is demonstrably untrue"]. Under the circumstances, allowing WCA to intervene inevitably would cause the reopening of discovery and the renegotiation or litigation of the parties' entire approach to resolving the issues, resulting in undue delay and the injection of new issues into the case. Under the circumstances, intervention is not warranted. (See also *Siena Court Homeowners Assn. v. Green Valley Corp.* (2008) 164 Cal.App.4th 1416, 1429 [the third requirement for discretionary intervention is a showing that " 'the intervention will not enlarge the issues in the litigation . . . .'"]; *Simpson Redwood Co. v. State of California* (1987) 196 Cal.App.3d 1192, 1202 ["Even if otherwise proper, 'intervention will not be allowed when it would retard the principal suit, or require a reopening of the case for further evidence, or delay the trial of the action, or change the position of the original parties.'"].)

Third, WCA's reasons for intervention do not outweigh the existing parties' opposition or the public interest in the prompt implementation of their stipulated judgment. Both the District and the Attorney General vigorously oppose WCA's intervention. The right to permissive intervention "is not absolute, as it may be 'permitted only if the petitioner shows facts which satisfy the requirements of the statute.' [Citation.] The statute is designed to promote fairness and to insure maximum involvement by all responsible interested and affected persons [citation], as it 'protects the interests of others affected by the judgment, obviating delay and multiplicity. [Citation.] However, '[c]ounterbalancing this purpose is the interest of the original parties in pursuing their litigation unburdened by others.'" (*Mary R. v. B. & R. Corp.* (1983) 149

Cal.App.3d 308, 314 [trial court properly denied government entity's request to intervene because it had only a consequential interest in the dismissed underlying action between the original parties].) Further, the public interest demands that the desegregation plan be implemented with the least amount of delay possible.

Lastly, the court observes that WCA is currently litigating certain of the issues that it seeks to inject into this case in another pending action. (*Willow Creek Academy v. Sausalito Marin City School District*, Case No. 1900855 (Marin Sup. Crt.).) The pendency of that other action also militates against intervention, since if WCA prevails on any of the theories it has asserted there, presumably it would be entitled to the funding that it relies upon as a basis for intervention here.

II. THE MOTION TO SET ASIDE JUDGMENT LACKS MERIT.

A nonparty to a lawsuit may move to set aside a judgment if (1) he has "a right, claim or interest, accruing before the issuance of the [judgment] which is prejudiced or injuriously affected by its enforcement," and (2) the judgment itself was "predicated on fraud, collusion, mistake, or lack of jurisdiction." (*Mary R. v. B. & R. Corp.*, 149 Cal.App.3d at 315; *Villarruel v. Arreola* (1977) 66 Cal.App.3d 309, 317-318.) For the same reasons it lacks a sufficient interest to intervene, WCA is not an indispensable party and lacks a sufficient "right, claim or interest" to set aside the judgment. (See *Olszewski v. Scripps Health* (2003) 30 Cal.4th 798, 809 [the fact that a judgment "may have a financial impact" on a third party does not make it an indispensable party].) WCA does not show that the Judgment is void or violated its due process rights. Contrary to WCA's argument, the Judgment did not "adjudicate" its rights or deprive it of any property to which it has a vested legal right; rather, it committed the District to comply with its legal obligations to desegregate, which may constrain the District's discretionary budgetary and funding decisions, thereby having an indirect effect on WCA.[8]

Finally, WCA's arguments that the Judgment includes provisions contrary to law (Mot. to Set Aside Judgment at 12-14) are baseless. WCA contends that the Judgment violates

[8] Again, to the extent that WCA has a protectable interest in the District's allocation to it of the excess aid funds, it is pursuing that interest in the separate litigation in Marin County.

Proposition 39 by giving the monitor "the ability to veto any provision of facilities without due regard to the needs of the charter school students," which it contends represents "an abject surrender of the discretionary decision vested in the District's governing board" to make factual findings. (*Id.* at 13.) Further, it contends that the Judgment "gives the Monitor an effective veto over the renewal of WCA's charter resulting in an unlawful abdication of the District's responsibilities." (*Id.* at 14.) As discussed in detail above, WCA misreads the Judgment.

CONCLUSION

For the foregoing reasons, Willow Creek Academy's motion to leave to intervene is denied, as is its motion to set aside the judgment.

IT IS SO ORDERED.

Dated: January 21, 2020

HON. ETHAN P. SCHULMAN
JUDGE OF THE SUPERIOR COURT

CGC-19-578227
THE PEOPLE OF THE STATE OF CALIFORNIA ET AL VS. SAUSALITO MARIN CITY SCHOOL DISTRICT

I, the undersigned, certify that I am an employee of the Superior Court of California, County Of San Francisco and not a party to the above-entitled cause and that on January 21, 2020 I served the foregoing on each counsel of record or party appearing in propria persona by causing a copy thereof to be enclosed in a postage paid sealed envelope and deposited in the United States Postal Service mail box located at 400 McAllister Street, San Francisco CA 94102-4514 pursuant to standard court practice.

Date: January 21, 2020

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Depputy Clerk

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