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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICHARD SINCLAIR, et al.

Plaintiffs,

v.

FOX HOLLOW OF TURLOCK OWNERS
ASSOCIATION, et al.

Defendants.

1:03-cv-05439-OWW-DLB

MEMORANDUM DECISION REGARDING
MOTION FOR SUMMARY JUDGMENT
(Doc. 478)

I. INTRODUCTION.

This case is a consolidation of three actions: An action commenced by Plaintiff Fox Hollow of Turlock Homeowners' Association ("Fox Hollow") against Richard Sinclair, Brandon Sinclair, Gregory Mauchley, Lairtrust, LLC, Capstone, LLC, Mautrst, LLC, and Stanley Flake as Trustee of Capstone Trust, Case No. CV-F-03-5439 OWW/DLB ("Fox Hollow Action"); an action commenced by California Equity Management Group, Inc. ("CEMG") against Mautrst LLC, Gregory Mauchley, Diana Mauchley, Lairtrust LLC, Richard Sinclair, Deborah Sinclair, Sinclair Enterprises, Inc., Capstone, LLC, Brandon Sinclair, Stanley Flake, and Stanley Flake as Trustee of the F. Hanse Trust and of the Julie Insurance Trust Case No. CVF- 03-5774 OWW/DLB ("CEMG Action"); and an action commenced by Lairtrust LLC, Mautrst LLC, and Capstone LLC against

1 Fox Hollow, Andrew Katakis, and California Equity Management Group,
2 Inc. in the Stanislaus County Superior Court, Case No. 322675
3 ("Lairtrust Action"), removed to this Court and consolidated with
4 the Fox Hollow and CEMG Actions by Order filed on October 6, 2003
5 ("Consolidated Federal Actions").

6 On August 10, 2010, Defendants Gregory Mauchley, Richard
7 Sinclair, and Brandon Sinclair ("Individual Defendants") filed a
8 cross-complaint against Plaintiffs. (Doc. 425). Plaintiffs Fox
9 Hollow and CEMG ("Plaintiffs") filed a motion to dismiss, or in the
10 alternative, sever and stay Individual Defendants cross-complaint
11 on September 3, 2010. (Docs. 431, 432). On January 21, 2011, the
12 court issued a memorandum decision granting in part Plaintiffs'
13 motion to stay and terminating Plaintiff's motion for a more
14 definite statement without prejudice. (Doc. 473 at 6). The court
15 denied Plaintiffs' motion to stay claims arising out of "(i)
16 Plaintiffs' alleged breach of the 2007 settlement agreement, and
17 (ii) Plaintiffs' alleged conduct during and after trial of the
18 state court action;" the court authorized Plaintiffs to file a
19 separate motion to stay regarding these claims. Individual
20 Defendants' claims arising out of the purported 2007 agreement have
21 been stayed. (Doc. 563).

22 Plaintiffs filed a motion for summary judgment on February 4,
23 2011; Plaintiffs motion seeks judgment on Individual Defendants'
24 claims arising out of ownership interests in Lot 1 during and after
25 trial of the state court action. (Doc. 478). Individual Defendants
26 filed opposition on March 14, 2011. (Doc. 493). Plaintiffs filed
27 a reply on March 21, 2011. (Doc. 505). The court heard Plaintiffs'
28 motion on May 2, 2011.

1 On January 21, 2011, the court issued a memorandum decision
2 granting Plaintiffs' motion to stay as to all claims asserted in the
3 counter-complaint except for claims arising out of "(i) Plaintiffs'
4 alleged breach of the 2007 settlement agreement, and (ii)
5 Plaintiffs' alleged conduct during and after trial of the state
6 court action." (Doc. 473). On April 29, 2011, the court issued a
7 memorandum decision granting Plaintiffs' motion to stay claims
8 arising out of the purported 2007 settlement agreement. (Doc. 563).
9 Defendants' only remaining unstayed cross-claims are those arising
10 out of "conduct during and after trial of the state court action;"
11 these claims are the target of Plaintiffs' instant motion for
12 summary judgment.

13 The cross-complaint's allegations concerning the unstayed
14 claims are unclear. The only allegations asserted in the cross-
15 complaint that appear to qualify as allegations concerning "conduct
16 during and after trial of the state court action" are contained at
17 pages 12 through 13 of the cross-complaint in paragraphs 33 through
18 36.¹ Paragraph 34 of the cross-complaint alleges that "Richard
19 Sinclair as a member manager of Lairtrust LLC acquired legal title
20 to Lot 1 [of the Property]." In paragraphs 35 through 36 of the
21 cross-complaint, Individual Defendants allege that Andrew Katakis,
22 acting on behalf of the Fox Hollow HOA: (1) violated certain
23 provisions of the Conditions, Covenants, and Restrictions ("CC&R's")

24
25 ¹ Individual Defendants' represent that "in addition to the incidents described
26 in [paragraphs 33-36], cross-defendants committed several other wrongful acts
27 during and after the trial as well." (Doc. at). Despite Individual Defendants'
28 representation that they would seek to file an amended cross-complaint to clarify
their allegations concerning Plaintiffs conduct during and after the state court
trial, they have not done so. (Doc. 443 at 6) (stating "Cross-complaints...will
file a motion requesting [leave] to amend their [cross-complaint] to include
these allegations.").

1 by failing to make repairs on Lot 1 within the Property and by
2 failing to place Sinclair and/or Lairtrust on the Board of Directors
3 of the HOA; (2) inadequately accounted for reserve accounts
4 maintained by the Fox Hollow HOA; (3) "assessed extra assessments
5 on Lot 1 and then proceeded to wrongfully foreclose;" and (4)
6 refused to remove "a judgment lien from Richard C. Sinclair that
7 Richard Sinclair had paid off years earlier despite written requests
8 for Defendant to do so." (Doc. 425 at 12-13).

9 **III. LEGAL STANDARD.**

10 Summary judgment/adjudication is appropriate when "the
11 pleadings, the discovery and disclosure materials on file, and any
12 affidavits show that there is no genuine issue as to any material
13 fact and that the movant is entitled to judgment as a matter of
14 law." Fed. R. Civ. P. 56(c). The movant "always bears the initial
15 responsibility of informing the district court of the basis for its
16 motion, and identifying those portions of the pleadings,
17 depositions, answers to interrogatories, and admissions on file,
18 together with the affidavits, if any, which it believes demonstrate
19 the absence of a genuine issue of material fact." *Celotex Corp. v.*
20 *Catrett*, 477 U.S. 317, 323, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986)
21 (internal quotation marks omitted).

22 Where the movant will have the burden of proof on an issue at
23 trial, it must "affirmatively demonstrate that no reasonable trier
24 of fact could find other than for the moving party." *Soremekun v.*
25 *Thrifty Payless, Inc.*, 509 F.3d 978, 984 (9th Cir. 2007). With
26 respect to an issue as to which the non-moving party will have the
27 burden of proof, the movant "can prevail merely by pointing out that
28 there is an absence of evidence to support the nonmoving party's

1 case." *Soremekun*, 509 F.3d at 984.

2 When a motion for summary judgment is properly made and
3 supported, the non-movant cannot defeat the motion by resting upon
4 the allegations or denials of its own pleading, rather the
5 "non-moving party must set forth, by affidavit or as otherwise
6 provided in Rule 56, 'specific facts showing that there is a genuine
7 issue for trial.'" *Soremekun*, 509 F.3d at 984. (quoting *Anderson v.*
8 *Liberty Lobby, Inc.*, 477 U.S. 242, 250, 106 S. Ct. 2505, 91 L. Ed.
9 2d 202 (1986)). "A non-movant's bald assertions or a mere scintilla
10 of evidence in his favor are both insufficient to withstand summary
11 judgment." *FTC v. Stefanchik*, 559 F.3d 924, 929 (9th Cir. 2009).
12 "[A] non-movant must show a genuine issue of material fact by
13 presenting affirmative evidence from which a jury could find in his
14 favor." *Id.* (emphasis in original). "[S]ummary judgment will not lie
15 if [a] dispute about a material fact is 'genuine,' that is, if the
16 evidence is such that a reasonable jury could return a verdict for
17 the nonmoving party." *Anderson*, 477 U.S. at 248. In determining
18 whether a genuine dispute exists, a district court does not make
19 credibility determinations; rather, the "evidence of the non-movant
20 is to be believed, and all justifiable inferences are to be drawn
21 in his favor." *Id.* at 255.

22 **IV. DISCUSSION.**

23 Plaintiffs' motion for summary judgment asserts that Individual
24 Defendants lack standing to prosecute claims arising out of
25 ownership interest in Lot 1 during or after the state court trial
26 because none of the Individual Defendants owned Lot 1 during the
27 operative time periods. Individual Defendants do not dispute that
28 none of them owned Lot 1 during or after the state court trial. Nor

1 do the Individual Defendants provide any legal authority for the
2 proposition that individual members of a limited liability company
3 ("LLC") have standing to pursue claims arising out of ownership
4 interests held solely by the LLC.

5 In California, an LLC is a hybrid business entity formed under
6 the Corporations Code consisting of at least two members who own
7 membership interests. See Cal. Corp. Code § 1700 *et seq.* An LLC
8 has a legal existence separate from its members. *E.g., Paclink*
9 *Communications Internat. v. Superior Court*, 90 Cal. App. 4th 958,
10 963 (Cal. Ct. App. 2001). While members actively participate in the
11 management and control of the company, they have limited liability
12 for the company's debts and obligations to the same extent enjoyed
13 by corporate shareholders. *Denevi v. LGCC, LLC*, 121 Cal. App. 4th
14 1211, 1214 n.1 (Cal. Ct. App. 2004). "Like corporate shareholders,
15 members of a limited liability company hold no direct ownership
16 interest in the company's assets." *Id.*

17 Members of an LLC do not have an ownership interest in property
18 to which the LLC holds title. *E.g., Kwok v. Transnation Title Ins.*
19 *Co.*, 170 Cal. App. 4th 1562, 1570-71 (Cal. Ct. App. 2009). Where
20 the gravamen of a complaint is injury to an LLC's property, the
21 right of action lies with the LLC, not individual members of the
22 LLC. See *Everest Investors 8 v. McNeil Partners*, 114 Cal. App. 4th
23 411, 426 (Cal. Ct. App. 2003) (discussing application of *Paclink* in
24 partnership context). Members of an LLC lack individual standing
25 to prosecute claims for injury to the LLC's property. *E.g.,*
26 *Paclink*, 90 Cal. App. 4th at 962, 965-66.

27 It is undisputed that none of the Individual Defendants were
28 owners of Lot 1 during the time period relevant to the remaining

1 unstayed claims asserted in the cross-complaint. As Individual
2 Defendants lack standing to sue for claims arising out of any LLC's
3 ownership interest in Lot 1 during and after trial of the state
4 court action, Plaintiffs are entitled to summary judgment on such
5 claims. Plaintiffs' motion is GRANTED.

6 **ORDER**

7 For the reasons stated, IT IS ORDERED:

8 1) Plaintiffs motion for summary judgment is GRANTED; and

9 2) Plaintiffs shall file a form of order consistent with this
10 memorandum decision within five (5) days of electronic service
11 of this decision.

12 IT IS SO ORDERED.

13 **Dated: June 13, 2011**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE