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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Luis Virata, an individual,
10 **Plaintiff,**
11 vs.
12 Eric Zemke, an individual, et al.,
13 **Defendants.**
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No. CV11-0988-PHX DGC

ORDER

15 Plaintiff's complaint alleges consumer fraud against all Defendants. Doc. 1 at 17.
16 After filing an answer (Doc. 15), Defendant Steve Wallace moved to dismiss on the sole
17 ground that as a member of an Arizona LLC he is not liable for acts performed in
18 furtherance of the LLC. Doc. 22. Plaintiff opposes (Doc. 32), and Defendant filed a
19 reply (Doc. 33). No party has requested oral argument.

20 Although a member of an LLC is not personally liable for debts and obligations of
21 the LLC "solely by reason of being a member," A.R.S. § 29-651, Defendant fails to show
22 that personal liability cannot attach for fraud in which Defendant is alleged to have
23 participated. *See, e.g., Jabczenski v. S. Pac. Mem'l Hosps., Inc.*, 579 P.2d 53, 58 (Ariz.
24 App. 1978) ("A director who actually votes for the commission of a tort is personally
25 liable, even though the wrongful act is performed in the name of the corporation."); *cf.*
26 A.R.S. § 29-651 (liability for members precluded only if liability is alleged "solely by
27 reason of being a member"). The motion to dismiss will be denied.
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