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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PETE NIJJAR,)	Case No. CV 12-08148 DDP (JCGx)
)	
Plaintiff,)	ORDER RE EX PARTE APPLICATION TO
)	SUBSTITUTE
v.)	
)	[DKT No. 41.]
GENERAL STAR INDEMNITY)	
COMPANY,)	
)	
Defendant.)	
)	
_____)	

This matter comes before us on Nijjar Reality, Inc. ("NRI")'s Ex Parte Application for Substitution of Party. (DKT No. 41.) Defendant General Star Indemnity Company ("General Star") opposes the Application. (DKT No. 42.) The matter is suitable for decision without oral argument. Having considered the parties' submissions, we deny NRI's Ex Parte Application for the following reasons:

Our February 28, 2014 Order provided as follows: "NRI [as the real party in interest to this action] shall have 21 days from the date of this Order to ratify, join or be substituted into the action. If this has not occurred, we will grant summary judgment against Nijjar for lack of standing as described above at that

1 time. Any purported action by NRI, a corporation, shall fully
2 comply with corporate law relating to any such action by the
3 corporation." (DKT No. 33 at 8.)

4 On March 19, 2014, NRI purportedly appeared and requested that
5 it be substituted in as Plaintiff. (DKT No. 41.) The Application
6 was accompanied by a Declaration of Mike Nijjar, who represents
7 himself as "a principle [sic] and owner of NRI." (Declaration of
8 Mike Nijjar in Support of Ex Parte Application ¶ 1.) Mike Nijjar
9 asserts in the declaration that the counsel who filed the
10 Application "is NRI's authorized counsel." (Id. ¶ 4.) He states
11 further that "NRI hereby expresses its desire to pursue the Claims
12 asserted in this case and is respectfully requesting to be
13 substituted into this action as Plaintiff." (Id. ¶ 17.)

14 As a general matter, California law provides that "a
15 corporation may sue upon authorization of its board of directors or
16 upon the initiative of its president or managing officer." Anmaco,
17 Inc. v. Bohlken, 13 Cal. App. 4th 891, 900 (1993) (quotation mark
18 and citation omitted). However, the law is unsettled as to whether
19 a president or managing officer has implied or inherent authority
20 to file suit on the corporation's behalf, without authorization to
21 do so in the corporation's bylaws or via resolution of the board of
22 directors. See, e.g., id.; 9 Witkin, Summary of Cal. Law (10th ed.
23 2005) Corporations, § 109 (noting that "there is disagreement
24 whether even the president has implied power to sue without board
25 authorization or ratification").

26 Here, as General Star points out in its Opposition, Mike
27 Nijjar does not make clear in his declaration that he is the
28 president or managing officer of NRI. He asserts only that he is a

1 "principle" [sic]. Nor does he assert that NRI's board of directors
2 or its corporate by-laws have authorized such action or pointed to
3 evidence of such authorization. The Application is also not
4 accompanied by any evidence that NRI is in good standing to be able
5 to sue. Normally, we do not require such attestations or evidence
6 when a corporation brings an action. However, there is a dispute as
7 to the real party in interest, and given the history of this case,
8 we require more than the bare assertions made in the instant
9 Application to ensure that the case is properly before us.

10 NRI shall have 14 days from the date of this Order to submit
11 documentation establishing that (1) in moving to have NRI
12 substituted in as Plaintiff, Mike Nijjar is acting with
13 authorization of NRI as provided in the company's bylaws or a
14 resolution of its board of directors, and (2) NRI is in good
15 standing to be able to sue. If NRI fails to timely and adequately
16 show authorized action on its behalf as required by this Order,
17 this Application will be denied, and this action will be dismissed
18 for lack of standing by Pete Nijjar at the expiration of the 14
19 days.

20 IT IS SO ORDERED.

21
22 Dated: March 25, 2014



23
24
25 GEORGE H. KING
26 Chief United States District Judge
27 for
28 DEAN D. PREGERSON
United States District Judge