

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES – GENERAL**

**‘O’**

Case No.	2:15-cv-6633-CAS (SSx); C/W: 2:16-cv-02287-CAS(SSx)	Date	June 27, 2019
Title	THE WIMBELDON FUND, SPC (CLASS TT) v. GRAYBOX, LLC ET AL.; C/W: THE WIMBELDON FUND, SPC (CLASS TT) v. DAVID BERGSTEIN; ET AL.		

Present: The Honorable CHRISTINA A. SNYDER

Catherine Jeang

Not Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

**Proceedings:** **(In Chambers)** THIRD-PARTY DEFENDANTS’ MOTIONS TO DISMISS (Dkts. [ 380 ], [381 ], [ 382 ], filed on December 20, 2018)

On November 15, 2018, third-party plaintiffs Graybox, LLC. (“Graybox”), David Bergstein (“Bergstein”), and Eugene Scher, as trustee of the Bergstein Trust (“Scher”), filed an amended third-party complaint against against Weston Capital Asset Management, LLC and Weston Capital Management ( “Weston”), Société Générale Private Banking Suisse (“SG Suisse”), Swiss Financial Services (Bahamas) LTD, Albert and Jeffrey Hallac (collectively, the “Hallacs”), and Keith Wellner. Dkt. 375. Third-party plaintiffs alleged claims for (1) equitable indemnity against all defendants; (2) contribution against all defendants; (3) fraudulent misrepresentation against the Hallacs, Wellner, and Weston; and (4) negligent misrepresentation against SG Suisse. *Id.* ¶¶ 123–55.

On June 6, 2019, the Court dismissed the claims for equitable indemnification and contribution, alleged against Weston, SG Suisse, the Hallacs, and Wellner, with prejudice. The Court dismissed without prejudice the claim for negligent misrepresentation, alleged against SG Suisse, because third-party plaintiffs failed to seek leave of the Court to amend their pleading to add that claim, and because the claim was barred by the statute of limitations. The Court also dismissed the claim for fraudulent misrepresentation, with leave to amend, as time-barred. To the extent that third-party plaintiffs sought to amend their allegations to allege facts that demonstrated that their claims were not time-barred, the Court directed third-party plaintiffs to file an amended complaint within fourteen (14) days of the date of the order.

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To date, third-party plaintiffs have not filed an amended complaint, and the deadline has now passed. Accordingly, the Court **DISMISSES** third-party plaintiffs’ claims for fraudulent misrepresentation and for negligent misrepresentation *with prejudice*.

IT IS SO ORDERED.

Initials of Preparer 00 : 00  
CMJ