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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF CALIFORNIA
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8 RICHARD SINCLAIR, et al.

1:03-cv-05439-OWW-DLB

9 Plaintiffs,

MEMORANDUM DECISION REGARDING
PLAINTIFFS' MOTION TO DISMISS,
OR IN THE ALTERNATIVE, SEVER
AND STAY DEFENDANTS' CROSS-
COMPLAINT (Docs. 431, 432)

10 v.

11 FOX HOLLOW OF TURLOCK OWNERS
12 ASSOCIATION, et al.

13 Defendants.
14

15 I. INTRODUCTION.

16 This case is a consolidation of three actions: An action
17 commenced by Plaintiff Fox Hollow of Turlock Homeowners'
18 Association ("Fox Hollow") against Richard Sinclair, Brandon
19 Sinclair, Gregory Mauchley, Lairtrust, LLC, Capstone, LLC,
20 Mauctrst, LLC, and Stanley Flake as Trustee of Capstone Trust, Case
21 No. CV-F-03-5439 OWW/DLB ("Fox Hollow Action"); an action commenced
22 by California Equity Management Group, Inc. ("CEMG") against
23 Mauctrst LLC, Gregory Mauchley, Diana Mauchley, Lairtrust LLC,
24 Richard Sinclair, Deborah Sinclair, Sinclair Enterprises, Inc.,
25 Capstone, LLC, Brandon Sinclair, Stanley Flake, and Stanley Flake
26 as Trustee of the F. Hanse Trust and of the Julie Insurance Trust
27 Case No. CVF- 03-5774 OWW/DLB ("CEMG Action"); and an action
28 commenced by Lairtrust LLC, Mauctrst 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 ("Defendants") filed cross-claims
8 against Plaintiffs. (Doc. 425). Plaintiffs Fox Hollow and CEMG
9 ("Plaintiffs") filed a motion to dismiss, or in the alternative,
10 sever and stay the cross-complaint on September 3, 2010. (Docs.
11 431, 432). Plaintiffs also filed a motion for more definite
12 statement on September 3, 2010. (Docs. 434, 435).

13 Defendants filed opposition to Plaintiffs' motion to dismiss
14 or stay the cross-claims on October 25, 2010. (Doc. 443).
15 Plaintiffs filed a reply on November 1, 2010. (Doc. 445).

16 **II. FACTUAL BACKGROUND.**

17 Defendants' cross-claims assert twenty-seven causes of action
18 against Plaintiffs arising out of various transactions and conduct
19 related to a property development known as Fox Hollow of Turlock
20 ("the Property").¹ Defendants unsuccessfully asserted most of
21 their cross-claims in an action filed on April 24, 2003 in the
22 Stanislaus County Superior Court. Judgment was entered against
23 Defendants in the state court action on August 18, 2009, and
24 Defendants filed a notice of appeal of the judgment on October 19,
25 2009. Resolution of Defendants appeal of the state court judgment

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27 ¹ An exhaustive factual background regarding the Property is set forth in the
28 Memorandum Decision regarding Defendants' motion to dismiss Plaintiffs'
Consolidated Complaint.

1 is pending in the California Court of Appeal.

2 *Inter alia*, Defendants cross-claims allege that Plaintiffs
3 breached a settlement agreement entered into in 2007 relating to
4 the Property, refused to put Lairtrust LLC on the Board of
5 Directors as required by the Conditions, Covenants, and
6 Restrictions (CCR's) applicable to the Property, and refused to
7 effect repairs and landscaping in violation of Plaintiffs duties
8 under the CCR's.

9 **III. LEGAL STANDARD.**

10 **A. Colorado River Doctrine**

11 Plaintiffs seek dismissal or a stay of Defendants' cross-
12 claims based on the Colorado River Doctrine. See *Colo. River Water*
13 *Conservation Dist. v. United States*, 424 U.S. 800 (1976). Under
14 *Colorado River*, considerations of "wise judicial administration,
15 giving regard to conservation of judicial resources and
16 comprehensive disposition of litigation," may justify a decision by
17 the district court to stay federal proceedings pending the
18 resolution of concurrent state court proceedings involving the same
19 matter. *Holder v. Holder*, 305 F.3d 854, 867 (9th Cir. 2002)
20 (quoting *Colorado River*, 424 U.S. at 817)). This doctrine "is a
21 narrow exception to the virtually unflagging obligation of the
22 federal courts to exercise the jurisdiction given them." *Smith v.*
23 *Central Ariz. Water Conservation Dist.*, 418 F.3d 1028, 1033 (9th
24 Cir.2005) (internal quotation marks omitted).

25 Colorado River provides a two-part inquiry for determining
26 whether a federal district court should abstain from adjudicating
27 a claim when there is a related state court proceeding. First, the
28 two suits must be parallel; they must involve substantially the

1 same parties litigating substantially the same issues. See
2 *Caminiti & Iatarola, Ltd. v. Behnke Warehousing, Inc.*, 962 F.2d
3 698, 700 (7th Cir. 1992). The second part of the Colorado River
4 inquiry entails a balancing test. The relevant factors include
5 whether both proceedings involve the same res, the relative
6 inconvenience of the federal forum, the need to avoid piecemeal
7 litigation, the order in which the proceedings were filed, whether
8 state or federal law provides the rule of decision, whether the
9 state action protects the federal plaintiffs' rights, the relative
10 progress of the two proceedings, the presence or absence of
11 concurrent jurisdiction, the availability of removal and the
12 vexatious or contrived nature of the federal claim. See, e.g.,
13 *Sverdrup Corp. v. Edwardsville Community Unit Sch. Dist. No. 7*, 125
14 F.3d 546, 549-50 (7th Cir. 1997).

15 **B. Landis Stay**

16 Plaintiffs also contend that a stay of the cross-claims is
17 appropriate under *Landis v. North American Co.*, 299 U.S. 248, 254,
18 (1936). When considering a motion to stay, the court weighs a
19 series of competing interests: (1) the possible damage which may
20 result from the granting of the stay, (2) the hardship or inequity
21 which a party may suffer in being required to go forward, and (3)
22 the orderly course of justice measured in terms of the simplifying
23 or complicating of issues, proof, and questions of law which could
24 be expected to result from a stay. *CMAX, Inc. v. Hall*, 300 F.2d
25 265, 268 (9th Cir. 1962).

26 When there is an independent proceeding related to a matter
27 before the trial court, the Ninth Circuit has held that a trial
28 court may "find it efficient for its own docket and the fairest

1 course for the parties to enter a stay of an action before it,
2 pending resolution of independent proceedings which may bear upon
3 the case." *Mediterranean Enters., Inc. v. Ssangyong Corp.*, 708
4 F.2d 1458, 1465 (9th Cir. 1983). For a stay to be appropriate it is
5 not required that the issues of such proceedings are necessarily
6 controlling of the action before the court. *Id.* However, a stay
7 may be improper where the independent proceeding is "unlikely to
8 decide, or contribute to the decision of, the factual and legal
9 issues" in the action for which the stay is requested. *Lockyer v.*
10 *State. of Cal.*, 398 F.3d 1098, 1113 (9th Cir. 2005).

11 **IV. DISCUSSION.**

12 Defendants' opposition concedes that the pending state court
13 action will resolve issues entailed by the cross-claims. (See
14 Opposition at 4) (contending that "state proceedings will not
15 dispose of *all* claims raised" by the cross-complaint) (emphasis
16 added). Because resolution of the pending state court action will
17 bear upon Defendants' cross-claims, and because moving forward on
18 the cross-claims without awaiting a decision in the state court
19 action would risk inconsistent results and entail significant waste
20 of resources, a stay is appropriate with respect to the majority of
21 the cross-claims. See *Ssangyong Corp.*, 708 F.2d at 1465.

22 Defendants contend that claims based on Plaintiffs' wrongful
23 conduct during and after the state court trial and Plaintiffs'
24 purported breach of the 2007 settlement agreement will not be
25 resolved by the pending state court action. (Opposition at 4-5).
26 Plaintiffs' respond that the alleged breach of the 2007 settlement
27 agreement was an issue raised in the state court trial, and that
28 Plaintiff's lack standing to assert claims based on the alleged

1 wrongful conduct of Plaintiffs during and after the state court
2 trial. During the November 8 hearing on Plaintiffs' motions, the
3 court directed Plaintiffs to file a separate motion addressing the
4 breach of settlement claim and the standing issue. Accordingly,
5 Plaintiffs' request to stay the cross-claims under *Landis* is
6 GRANTED, except as to claims arising out of (1) Plaintiff's alleged
7 breach of the 2007 settlement agreement; and (2) Plaintiff's
8 alleged conduct during and after trial of the state court action.
9 Plaintiffs may file a separate motion regarding such claims.

10 **ORDER**

11 For the reasons stated, IT IS ORDERED:

- 12 1) Defendants' cross-claims are STAYED, except for claims
13 arising out of (i) Plaintiffs' alleged breach of the 2007
14 settlement agreement, and (ii) Plaintiffs' alleged conduct
15 during and after trial of the state court action;
- 16 2) Plaintiffs may file a separate motion regarding the claims
17 that are not stayed within fifteen (15) days following
18 electronic service of this decision;
- 19 3) Plaintiffs' motion for a more definite statement is
20 terminated without prejudice in light of the stay, and
- 21 4) Plaintiffs shall lodge a formal order consistent with this
22 decision within five (5) days following electronic service of
23 this decision.

24 IT IS SO ORDERED.

25 **Dated: January 20, 2011**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE