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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MILILANI GROUP, INC.,	)	Case No. 2:12-cv-00891 JAM-CKD
	)	
Plaintiff,	)	<b>ORDER GRANTING DEFENDANTS'</b>
	)	<b>MOTION FOR ENTRY OF JUDGMENT IN</b>
v.	)	<b>FAVOR OF O'REILLY</b>
	)	
O'REILLY AUTOMOTIVE, INC., and	)	
CSK AUTO, INC.,	)	
	)	
Defendants.	)	
	)	
	)	

This matter is before the Court on Defendants O'Reilly Automotive, Inc. ("O'Reilly"), and CSK Auto, Inc.'s ("CSK") (collectively "Defendants") Motion for Entry of Judgment in Favor of O'Reilly (Doc. #31). Plaintiff Mililani Group, Inc. ("Plaintiff") opposes the motion (Doc. ##32, 36) and Defendants replied (Doc. #34).<sup>1</sup> For the following reasons, Defendants' motion is GRANTED.

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///

<sup>1</sup> This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled for June 5, 2013.

1 I. FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND

2 Defendants moved to dismiss all claims against O'Reilly and  
3 the waste claim; that motion was granted with leave to amend (Doc.  
4 #16). After Plaintiff filed a Second Amended Complaint ("SAC")  
5 (Doc. #17), Defendants once more moved to dismiss all claims  
6 against O'Reilly and the waste claim. On April 3, 2013, the Court  
7 granted Defendants' second motion to dismiss with prejudice  
8 ("Order"). Order, Doc. #29, at 7.

9 On May 5, 2013, Defendants filed this present motion for  
10 entry of judgment in favor of O'Reilly (Doc. #31). Plaintiff  
11 opposed the motion (Doc. #32). The Court issued a minute order  
12 amending the Order as follows: "All claims against Defendant  
13 O'Reilly Automotive, Inc., (Defendant O'Reilly) are dismissed with  
14 prejudice." Minute Order and Order to Show Cause ("Minute  
15 Order"), Doc. #33. The Court further ordered Plaintiff to inform  
16 the Court in writing whether it still opposed the entry of  
17 judgment in favor of O'Reilly. Id. On May 29, 2013, Plaintiff  
18 responded to the Court's minute order, stating that it still  
19 opposes Defendants' motion for entry of judgment. Plaintiff's  
20 Response to the Court's Order to Show Cause ("Response"), Doc.  
21 #36, at 2.

22  
23 II. OPINION

24 A. Legal Standard

25 Federal Rule of Civil Procedure 54(b) allows a district court  
26 to direct entry of final judgment for the purpose of appeal as to  
27 one or more, but fewer than all, claims if the Court expressly  
28 determines that there is no just reason for delay. Fed. R. Civ.

1 P. 54(b). First, the Court must determine whether it is dealing  
2 with a final judgment. Curtiss-Wright Corp. v. Gen. Elec. Co.,  
3 446 U.S. 1, 7 (1980). "It must be a 'judgment' in the sense that  
4 it is a decision upon a cognizable claim for relief, and it must  
5 be 'final' in the sense that it is 'an ultimate disposition of an  
6 individual claim entered in the course of a multiple claims  
7 action.'" Id. (quoting Sears, Roebuck & Co. v. Mackey, 351 U.S.  
8 427, 436 (1956)). Second, the Court must determine whether there  
9 is any just reason for delay, "tak[ing] into account judicial  
10 administrative interests as well as the equities involved." Id.  
11 at 8. To determine if there is any just reason for delay, "[a]  
12 district court may consider factors such as 'whether the claims  
13 under review were separable from the others remaining to be  
14 adjudicated' as well as 'whether the nature of the claims already  
15 determined is such that no appellate court would have to decide  
16 the same issues more than once even if there were subsequent  
17 appeals.'" Randhawa v. Skylux, Inc., CIV. 2:09-02304 WBS, 2013 WL  
18 1152063, at \*2 (E.D. Cal. Mar. 19, 2013) (citing Curtiss-Wright  
19 Corp. v. Gen. Elec. Co., 446 U.S. 1, 8 (1980)).

20 B. Discussion

21 1. Final Judgment

22 Defendants argue that the case against O'Reilly has been fully  
23 and finally determined in favor of O'Reilly. Mot. at 5. Plaintiff  
24 argues that entry of judgment is not appropriate because no facts  
25 have been developed and because the Court may change its mind.  
26 Response at 2. However, Plaintiff failed twice to properly allege  
27 alter ego liability against O'Reilly and therefore the Court  
28 dismissed all claims against O'Reilly without leave to amend.

1 Order at 5. Moreover, the Court has now made clear that all claims  
2 against O'Reilly have been dismissed with prejudice. Minute Order,  
3 Doc. #33. Accordingly, the Court has ultimately disposed of all  
4 claims against O'Reilly as required for entry of judgment under  
5 Rule 54(d).

6 2. Just Reason for Delay

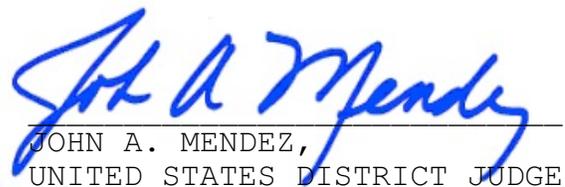
7 Defendants contend that entry of judgment in O'Reilly's favor  
8 would promote judicial efficiency because if Plaintiff prevails in  
9 appealing the entry of judgment in O'Reilly's favor, the case would  
10 then continue simultaneously against both O'Reilly and CSK. Reply  
11 at 2. Plaintiff disagrees, arguing that entry of judgment would  
12 start the time period for an appeal and force Plaintiff to appeal  
13 the judgment now instead of waiting to resolve all issues in a  
14 single appeal at the conclusion of the case. Response at 2.  
15 Because the alter ego claim against O'Reilly is separate from the  
16 breach of contract claim that remains against CSK, the appellate  
17 court will not have to decide the same issue more than once and  
18 therefore, one single appeal is unnecessary. See Randhawa, 2013 WL  
19 1152063, at \*2 (noting that the Court should consider whether the  
20 claims are separable and whether the appellate court would have to  
21 decide the same issue more than once). Accordingly, the Court  
22 finds that there is no just reason for delay.

23 III. ORDER

24 For the reasons set forth above, Defendants' Motion for Entry  
25 of Judgment in Favor of O'Reilly is GRANTED.

26 IT IS SO ORDERED.

27 Dated: June 14, 2013

28   
JOHN A. MENDEZ,  
UNITED STATES DISTRICT JUDGE