

FILED

SEP 11 2017

Clerk, U.S. District Court
District Of Montana
Helena

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

WEH Magic Valley Holdings, LLC, a
limited liability corporation,

Plaintiff,

vs.

EIH Parent, LLC, a limited liability
company and James Carkulis, an
individual,

Defendants.

No. CV-15-50-H-SEH

ORDER

Defendants EIH and James Carkulis' Motion to Dismiss Counts I (in Part), and II through V of Plaintiff's Second Amended Complaint and to Dismiss James Carkulis¹ filed on November 4, 2016, remained pending when renewed cross-motions directed to Counts II-V were filed on July 14, 2017.² The July 14, 2017, cross-motions were denied, for reasons stated by Order and Memorandum of September 5, 2017.³

¹ Doc. No. 89.

² Doc. Nos. 142 and 146.

³ Doc. No. 160.

Issues raised by Defendants' Motion to Dismiss Counts II through V of Plaintiff's Second Amended Complaint⁴ asserted on November 4, 2016, and renewed on July 14, 2017,⁵ appear to have been embraced by and within the issues pending when the September 5, 2017, Order and Memorandum were issued.⁶ In the interest of clarification of the record for purposes of consideration for remaining issues,

ORDERED

Defendants EIH and James Carkulis' motion⁷ to dismiss counts II through V of Plaintiff's Second Amended Complaint⁸ are denied without prejudice, as limited by the terms of this order.

If, and to the extent, either party now contends that issues directed to Counts II through V of the Second Amended Complaint which were raised in Defendants' motion to dismiss counts II through V of the Second Amended Complaint dated November 4, 2016, remain pending and unresolved, such party shall have to and including September 15, 2017, in which to file an additional brief directed solely

⁴ Doc. No. 89.

⁵ Doc. Nos. 142 and 146.

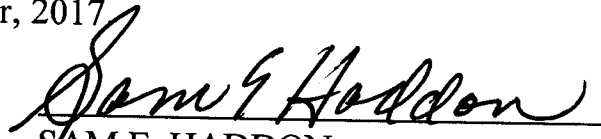
⁶ Doc. No. 160.

⁷ Doc. No. 89.

⁸ Doc. No. 82.

to such unresolved issues. Optional response briefs shall be filed on or before
September 22, 2017.

DATED this 11th day of September, 2017


SAM E. HADDON
United States District Judge