

1 (“the Plan”), and the resulting confirmation order (“the Confirmation Order”) included a finding
2 that a settlement had been reached (“the Settlement Agreement,” which, along with the Plan, was
3 attached to the Confirmation Order) under which Gonzales would extinguish his note and
4 reconvey his deed of trust as to his interest in Parcel A, Gonzales and another party would
5 convey their fractional interests in Parcel A to Desert Land, LLC and/or Desert Oasis
6 Apartments, LLC so that those entities would own 100% of Parcel A, Gonzales would receive
7 Desert Ranch, LLC’s 65% interest in another property, and Gonzales would receive \$7.5 million
8 or \$10 million if Parcel A were sold or otherwise transferred, depending on the date of transfer
9 (“the Parcel A Transfer Fee”). Gonzales appealed, and the Bankruptcy Appellate Panel affirmed
10 except as to a provision subordinating Gonzales’s interest in the Parcel A Transfer Fee to up to
11 \$45 million in financing. The Court of Appeals affirmed.

12 **B. The First Action**

13 In 2011, Gonzales sued Desert Land, LLC; Desert Oasis Apartments, LLC; Desert Oasis
14 Investments, LLC; Specialty Trust; Specialty Strategic Financing Fund, LP; Eagle Mortgage Co.;
15 and Wells Fargo in state court for: (1) declaratory judgment that a transfer of Parcel A had
16 occurred entitling him to the Parcel A Transfer Fee; (2) declaratory judgment that the lender
17 defendants in that action knew of the bankruptcy proceedings and the requirement of the Parcel
18 A Transfer Fee; (3) breach of contract; (4) breach of the implied covenant of good faith and fair
19 dealing; (5) judicial foreclosure against Parcel A under Nevada law; and (6) injunctive relief.
20 The defendants removed the case to the bankruptcy court, which suggested withdrawal of the
21 reference because the undersigned had issued the Confirmation Order while sitting as a
22 bankruptcy judge. One or more parties so moved, and the Court granted the motion. In that
23 case, No. 3:11-cv-613, the Court ruled against Gonzales, and the Court of Appeals affirmed,
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1 ruling that the Parcel A Transfer Fee had not been triggered based on the allegations made there,
2 and that Plaintiff had no lien against Parcel A.

3 **C. The Second Action**

4 In the Second Action, No. 2:13-cv-931, also removed from state court, Gonzales alleged
5 that Shotgun Investments Nevada, LLC had made various loans to the Desert Entities for the
6 development of Parcel A between 2012 and January 2013 despite its awareness of the Plan and
7 the Parcel A Transfer Fee provision therein. Plaintiff sued Shotgun Investments Nevada, LLC
8 (erroneously named as “Shotgun Nevada Investments, LLC”); Shotgun Creek Las Vegas, LLC;
9 Shotgun Creek Investments, LLC; and Wayne M. Perry for intentional interference with
10 contractual relations, intentional interference with prospective economic advantage, and unjust
11 enrichment. The defendants removed and moved for summary judgment, arguing that the
12 preclusion of certain issues decided in the First Action controlled the Second Action. The Court
13 granted that motion as a motion to dismiss, with leave to amend.

14 Gonzales amended, and the defendants moved for summary judgment. The Court struck
15 the conspiracy and declaratory judgment claims, because Gonzales had no leave to add them.
16 The Court otherwise denied the motion for summary judgment, although the Court noted that the
17 intentional interference with prospective economic advantage claim was legally insufficient. The
18 defendants moved for summary judgment after further discovery. The Court denied the motion
19 and a motion to reconsider but granted a motion to strike the untimely jury demand. The sole
20 claim remaining for a bench trial was then the claim for intentional interference with contractual
21 relations. The parties settled during trial.

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