STATE OF MINNESOTA
IN COURT OF APPEALS
A19-2082

40 Ventures LLC,
Appellant,

vs.

Minnesquam, L.L.C., et al.,
Respondents.

Filed September 14, 2020
Affirmed
Smith, Tracy M., Judge

Hennepin County District Court
File No. 27-CV-19-11034

Christopher W. Madel, Jennifer M. Robbins, Matthew J.M. Pelikan, Madel PA, Minneapolis, Minnesota (for appellant)

David R. Marshall, Leah C. Janus, Kyle W. Ubl, Fredrickson & Byron, P.A., Minneapolis, Minnesota (for respondents)

Considered and decided by Bratvold, Presiding Judge; Smith, Tracy M., Judge; and Slieter, Judge.

U N P U B L I S H E D O P I N I O N

SMITH, TRACY M., Judge

Appellant 40 Ventures LLC is one of the members of the limited liability company Aspire Beverage Company LLC. 40 Ventures challenges the district court's dismissal of its complaint against respondents (Aspire, other members of Aspire, and another company)

for failure to state a claim. In its complaint, 40 Ventures alleges breach of contract, breach of fiduciary duty, and tortious interference with contract, and seeks an order compelling Aspire to disclose company records. The district court dismissed all of the claims. We affirm.

FACTS

Because we are reviewing the dismissal of 40 Ventures' complaint for failure to state a claim, we take the facts as alleged in the complaint as true. *See Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 606 (Minn. 2014). As alleged, on December 11, 2012, John Montague and Jesse Parker created Aspire. They formed the company to market a healthier sports drink. Montague and Parker ran Aspire through their respective companies, with 40 Ventures (an entity wholly owned by Montague) and Jabejo LLC (an entity wholly owned by Parker) each owning part of Aspire as members.

Aspire sought additional investment and, by June 2013, found three additional investors who all became members: Rob Lund, respondent Minnesquam, L.L.C., and respondent Way Trust LLC.[1] Aspire's business grew, generating about $180,000 in revenue in 2013 and $800,000 in 2014. In April 2015, two more companies invested in Aspire and became members: WaterRev LLC and respondent RC Ventures LLC.

On September 23, 2015, the members of Aspire entered into a Membership Control Agreement (MCA). The MCA was the third amendment to the initial agreement between 40 Ventures and Jabejo. The MCA establishes a six-person board of governors (the board)

[1] Way Trust acted as the trustee of respondent 2006 Grayhat Trust.

for Aspire. Under the MCA, each member, except RC Ventures, has the right to appoint a governor to the board. 40 Ventures appointed Montague, Jabejo appointed Parker, Rob Lund appointed himself, Minnesquam appointed Lucy Stitzer, WaterRev appointed Cynthia Fisher, and Way Trust appointed Donald MacMillan.

The MCA authorizes the board to manage the company, subject to the limitations in the MCA. The MCA identifies certain decisions relating to Aspire that require "Supermajority Approval." The MCA defines "Supermajority Approval" as "approval of (i) at least one (1) of the JABEJO and 40 Ventures Board designees, and, (ii) at least two (2) of the Minnesquam, Way Trust, Lund and WaterRev Board designees." The MCA also prohibits an interested member, or any governor appointed by that member, from participating in deliberations, being counted for purposes of a quorum, or being counted in a vote on the matter in which the member is interested.

On December 5, 2016, Stitzer, MacMillan, and Lund met with Parker and Montague. Stitzer and MacMillan told Montague and Parker that they were unhappy with the direction of Aspire and were both terminating Montague's and Parker's employment and removing them from the board. They offered Montague a full-time consulting role, but Montague told them that he would not agree to be removed from the board. Stitzer provided Montague with the contact information for Sheila Posthumus, an employee of respondent Waycrosse Inc., and told Montague that he should direct all future questions regarding his employment to Posthumus.

Montague met with Posthumus, who told him that she would be handling his transition to a full-time consulting role and asked him to sign a separation agreement that

waived 40 Ventures' governance rights under the MCA. Montague refused to sign the agreement. Posthumus also asked Montague to turn in his laptop and any other Aspire property, but Montague refused. Montague then attempted to return to work at Aspire, but he found that his email account was disabled. He called Posthumus, who told him that his email account would be reactivated when he signed the separation agreement.

On December 23, 2016, Posthumus told Montague that his separation agreement was contingent on Parker also signing a separation agreement. Montague later learned that, at some point, Parker had agreed to transfer Jabejo's voting rights to Stitzer. On March 1, 2017, the board voted to dissolve Aspire without Montague's or 40 Ventures' knowledge or approval. The parties disagreed on the board's authority to take such an action. The board's position was that the supermajority requirement was satisfied because of Parker's transfer of his voting rights. Montague's position was that Parker could not transfer his voting rights without approval from 40 Ventures. According to 40 Ventures' complaint, because Parker did not effectively transfer his voting rights and did not vote to dissolve Aspire, the March 1 vote did not satisfy the supermajority requirement to dissolve the company.

On August 1, 2018, Montague sent a letter in his capacity as a governor of Aspire to the board requesting documents and information from Aspire. Among other information, he sought documents related to Montague's and Parker's terminations, any agreements made with Parker and/or Jabejo, and any documents concerning a possible sale of Aspire. Aspire responded without producing any records, stating that Montague's requests were

unduly broad and burdensome and that Montague failed to state his purpose for reviewing the documents.

On July 1, 2019, 40 Ventures filed the complaint in this matter. It alleged that the board did not have the authority to dissolve Aspire. Counts 1 through 8 of the complaint are breach-of-contract claims against Minnesquam, Way Trust, and RC Ventures, alleging that their actions violated eight of the supermajority requirements of the MCA.[2] Count 9 alleges that the same members breached their fiduciary duties. Count 10 asserts a claim of tortious interference with contract against Waycrosse. And count 11 asks the court to compel Aspire to provide certain books and records to 40 Ventures.

The respondents filed a motion to dismiss 40 Ventures' claims, which the district court granted. The district court concluded that 40 Ventures' breach-of-contract and breach-of-fiduciary-duty claims against other members of Aspire are legally insufficient because the complaint bases those claims on actions taken by the board, not by the members.[3] The district court further determined that the claim against Waycrosse for tortious interference with contract is legally insufficient because, according to the complaint, Waycrosse, through its agent Posthumus, only made requests to Montague, which he refused, and those requests did not cause a breach of the MCA. Finally, the district

[2] The complaint also asserted these claims against 2006 Grayhat Trust. The district court determined that 2006 Grayhat Trust, as a trust, was not a proper party to the lawsuit and dismissed the claims against it.

[3] Alternatively, the district court concluded that 40 Ventures lacks standing to bring the breach-of-contract and breach-of-fiduciary-duty claims because the claims are derivative claims and could only be brought on behalf of Aspire in a derivative suit.

court dismissed the count requesting an order to produce Aspire's books and records because the complaint does not allege that 40 Ventures made a demand for documents and information—instead, it alleges that Montague made the request in his role as a governor of Aspire.

40 Ventures appeals.

D E C I S I O N

When reviewing the dismissal of a complaint for failure to state a claim under Minn. R. Civ. P. 12.02(e), appellate courts review the legal sufficiency of the claim de novo to determine whether the complaint sets forth a legally sufficient claim for relief. *Hebert v. City of Fifty Lakes*, 744 N.W.2d 226, 229 (Minn. 2008). Appellate courts "accept the facts alleged in the complaint as true and construe all reasonable inferences in favor of the nonmoving party." *Walsh*, 851 N.W.2d at 606. "A claim is sufficient against a motion to dismiss for failure to state a claim if it is possible on any evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded." *Id.* at 603.

I. 40 Ventures' complaint fails to state a claim for breach of contract or breach of fiduciary duty against other Aspire members.

We begin with whether 40 Ventures' complaint states a claim for breach of contract or breach of fiduciary duty against the other members of Aspire. Important to this analysis is Minnesota's statutory law governing limited liability companies.[4] Under that law, "[t]he

[4] Although neither party argues on appeal that the outcome would be changed by it, Minnesota statutory law governing limited liability companies has changed over the period at issue in this case. The district court concluded that most of 40 Ventures' claims are governed by the former Minnesota Limited Liability Company Act, which was codified in Minn. Stat. ch. 322B, because Aspire was formed in 2012 when that act was in effect. In

business and affairs of a limited liability company is to be managed by or under the direction of a board of governors . . . .” Minn. Stat. § 322B.606, subd. 1 (2016). And, under the law, “a member . . . of a limited liability company is not, merely on account of this status, personally liable for the acts . . . of the limited liability company.” Minn. Stat. § 322B.303, subd. 1 (2016). This limitation on liability “continues in full force regardless of any dissolution, winding up, and termination of a limited liability company.” *Id.*, subd. 3 (2016). The limitation on members’ liability is not absolute. A member may be a proper party in litigation involving a limited liability company if “the proceeding involves a claim of personal liability or responsibility of that member and that claim has some basis other than the member’s status as a member.” Minn. Stat. § 322B.88 (2016).

A. Breach-of-contract claims

40 Ventures contends that its complaint states legally sufficient breach-of-contract claims against the other members of Aspire. It argues that the claims are based on the members’ wrongful conduct in violation of the MCA, and not on their status as members, and that the claims are therefore actionable under Minn. Stat. § 322B.88. Respondents counter that the claims, as alleged in the complaint, are based on actions taken by the board,

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2014, the Legislature passed the Minnesota Revised Uniform Limited Liability Company Act, codified at chapter 322C, to replace chapter 322B. *See* 2014 Minn. Laws ch. 157, arts. 1, § 1, at 1; 2, §§ 29, at 76; 31, at 77 (enacting chapter 322C, effective August 1, 2015, and repealing chapter 322B, effective January 1, 2018). But, with respect to limited liability companies formed before August 1, 2015, chapter 322C took effect in a staggered manner, fully applying to such entities only after January 1, 2018. *See* Minn. Stat. § 322C.1204, subds. 1-3 (2018). The alleged conduct in this case, other than the records requests, took place in 2016 and 2017, so the district court’s conclusion that chapter 322B controls is correct.

not by Aspire's members, and that the claims against the members are therefore not legally sufficient and are precluded by Minn. Stat. § 322B.303, subd. 1.

To resolve the dispute, we must first examine the complaint and the MCA. In all eight of its breach-of-contract claims, 40 Ventures alleges that the other members breached the MCA by taking an action without the supermajority approval required by section 3.3 of the MCA. Section 3.3 states that "[t]he following decisions relating to the Company require Supermajority Approval" and, in separate subparagraphs, lists 36 specific decisions. Each of the eight counts in the complaint cites a specific, and different, subparagraph of section 3.3 that was allegedly violated.

In the section of the MCA immediately preceding the supermajority-approval section, the MCA identifies the authority of the board of governors. Section 3.2, entitled "Board Authority," states:

> The business and affairs of the Company will be managed by and under the authority and supervision of the Board of Governors, which, subject to the limitations set forth in this Agreement, will have all power and authority prescribed by, and all duties and obligations imposed by, [chapter 322B.]

Section 1.1 of the MCA defines "Supermajority Approval" as approval by a specific number and combination of votes by "Board designees."

40 Ventures asserts that the MCA is an agreement between the members and thus creates enforceable contractual obligations between the members under Minnesota's limited-liability-company law. Under that law, a valid member-control agreement "is enforceable by persons who are parties to it and is binding upon and enforceable against only those persons and other persons having knowledge of the existence of the member

control agreement." Minn. Stat. § 322B.37, subd. 3(a) (2016). But that a member-control agreement may be binding on the members and enforceable against them is not in dispute. To state a claim against the members for breach of the MCA, 40 Ventures must allege *how* the other members breached the MCA.

The complaint alleges that the members breached eight of the MCA supermajority requirements in section 3.3. But the supermajority requirements in that provision apply to the *board*, not the *members*. 40 Ventures contends that the MCA defines the powers of individual governors in terms of the appointing members, but none of the clauses in the MCA reserves powers from the governors for the members and none contradicts section 3.2, granting the board the authority to manage the affairs of the company.

40 Ventures suggests that, because the supermajority provision is part of an agreement between the members, any decisions made in violation of that provision were decisions made by the members. But section 3.2 of the MCA explicitly states that the board manages the affairs of the company and section 1.1 defines "Supermajority Approval" in terms of the approval of the "Board designees," not the members.[5] Together, these clauses make it clear that the decisions contemplated by section 3.3 of the MCA are board decisions, not member decisions.[6]

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[5] We note that 40 Ventures also argues that the supermajority clause is defined in terms of approval, not a formal vote, and that this language suggests that the decisions that require a supermajority are member decisions, not board decisions. But section 3.2 makes explicit that the board manages the affairs of the business, not the members.

[6] At oral argument, 40 Ventures somewhat recast its argument for why the supermajority-approval provision applies to the members, not the board. It argued that section 3.3 only requires the approval of the members' "designees" and that the MCA contemplates that

40 Ventures points to provisions of the MCA other than section 3.3 to argue that the MCA creates agreed-to enforceable member obligations. It cites MCA provisions establishing member obligations and entitlements with respect to income and losses and the transfer of membership units. But each of those provisions refers explicitly to members. And the fact that the MCA explicitly describes other member obligations and limitations by referring directly to members simply draws into focus that such language is absent from the supermajority-requirement clause.

40 Ventures asserts that member obligations imposed by the MCA shift consideration of its claims away from Minn. Stat. § 322B.303—which precludes claims against members of a limited liability company based on their status as members—and into the domains of Minn. Stat. §§ 322B.37, .88 (2016). As noted above, Minn. Stat. § 322B.37, subd. 3, states that member-control agreements are binding and enforceable against members. And Minn. Stat. § 322B.88, consistent with section 322B.303, states that a proceeding can take place against members when the proceeding involves a claim with some basis other than the member's status as a member. But neither section 322B.37 nor section 322B.88 provides an independent rationale to suggest that the MCA's supermajority clauses created a contractual obligation for respondents. Again, the fact that, in general, a member-control agreement may be enforceable under these statutes does not

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those "designees" might be different from the member-designated board governors. Thus, it contends, decisions listed in section 3.3 are the members' decisions, not the board's. This argument finds no support in the MCA. The MCA defines "Supermajority Approval" in terms of the "*Board* designees," and defines "Board" as the "board of governors of the Company." (Emphasis added.) Thus, the actions listed under the MCA supermajority-approval provision are the actions of the board.

mean that everything in a member-control agreement creates an obligation for the members.

40 Ventures contends that upholding the dismissal of their claims in this case will render all member-control agreements meaningless. We disagree. Such a holding simply reflects what the MCA in this case states: that the board, not the members, makes decisions for Aspire, according to the applicable rules.

40 Ventures also contends that dismissing its claims is inconsistent with precedential Minnesota caselaw. Again, we disagree. 40 Ventures cites *Blum v. Thompson*, 901 N.W.2d 203, 216 (Minn. App. 2017), *review denied* (Minn. Oct. 25, 2017). It argues that *Blum* held that a "board's decision to enter into a lease agreement was not immunized because it acted as a board because it also 'directly affect[ed] certain shareholders in their individual capacities.'" But, in *Blum*, we were discussing whether a claim was derivative or direct—we were not discussing the potential liability of the owners of a limited-liability entity. *See Blum*, 901 N.W.2d at 215-16. This court did not consider any claims related to alleged breaches of a member-control agreement of a limited liability company because the parties in that case did not raise such arguments and, in fact, the company at issue was not a limited liability company. *See id.* at 213.

While, on appeal, 40 Ventures has emphasized its theory that the members are subject to suit because they engaged in wrongful conduct, at the district court, it emphasized other arguments. One of those arguments was that Aspire's members are subject to breach-of-contract claims because they appointed the governors who took the challenged actions. The district court rejected this argument, relying in part on an analysis

of Delaware courts' refusal "to impute liability to a shareholder on the basis that the shareholder appointed a director whose conduct is at issue."

40 Ventures now states that it bases its claim not "merely on the affiliation between . . . Respondents and their appointed Governors" but on the MCA and its significance as a contract between 40 Ventures and the other members. While 40 Ventures does not explicitly abandon its theory that the other members are liable based on the actions of their appointed governors, its main brief does not offer an alternative basis for the theory that a member can be held liable for the actions of a governor appointed by that member. Instead, 40 Ventures argues that its claims arise from the actions of members themselves. Given that theory of the case, the Delaware case law discussed by the district court may indeed be "inapposite," as 40 Ventures asserts, but that theory also forecloses the argument that 40 Ventures made to the district court.

Still, despite arguing that the respondeat-superior theory rejected by the district court is irrelevant, 40 Ventures presents a parallel argument in its reply brief. It argues that, under Delaware law, a board designee's "knowledge and participation" may be imputed to a member who "has the right to unilaterally designate a member of an LLC's board." *See Carr v. New Enter. Assocs., Inc.*, No. 2017-0381-AGB, 2018 WL 1472336, at *16 (Del. Ch. Mar. 26, 2018) ("A director's knowledge and participation in a breach may be imputed to a non-fiduciary entity for which that director also serves in a fiduciary capacity."); *Carlson v. Hallinan*, 925 A.2d 506, 542 (Del. Ch. 2006). Under this theory, the members may be liable for actions taken by their appointed governors because the knowledge of and participation in the alleged actions taken by governors may be imputed to respondents.

But 40 Ventures never raised these "knowledge and participation" cases to the district court. A party cannot raise a new issue on appeal, "[n]or may a party obtain review by raising the same general issue litigated below but under a different theory." *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). We conclude that 40 Ventures forfeited the argument that courts can impute a governor's knowledge and participation to an appointing member.[7]

In sum, because all of 40 Ventures' breach-of-contract claims against the other Aspire members are founded on the board's alleged violation of the supermajority requirements in section 3.3 of the MCA, 40 Ventures has failed to state a breach-of-contract claim against the members.

B. Breach-of-fiduciary-duty claim

Count 9 of 40 Ventures' complaint alleges that the other members of Aspire breached their fiduciary duties to 40 Ventures. "A breach of fiduciary duty claim consists of four elements: duty, breach, causation, and damages." *Hansen v. U.S. Bank Nat'l Ass'n*, 934 N.W.2d 319, 327 (Minn. 2019). Members of a closely held LLC owe one another a duty "to act in an honest, fair, and reasonable manner in the operation of the [LLC]." Minn.

[7] Even assuming that 40 Ventures did not forfeit its imputed-knowledge-and-participation argument, the Delaware cases apply the imputed-knowledge-and-participation rule in the context of claims of aiding and abetting a breach of fiduciary duties, which include an element of "knowing participation." *See Carr*, 2018 WL 1472336, at *16; *Carlson*, 925 A.2d at 542. Such claims are not alleged here.

Stat. § 322B.833, subd. 4 (2016) (describing such a duty as one of the considerations in granting an equitable remedy).[8]

40 Ventures' description of count 9 in the complaint does not explicitly link actions taken by the other members to a breach of fiduciary duties. Instead, it incorporates the earlier allegations and states, "By their above-described actions and omissions, Minnesquam, Way Trust (including the 2006 Grayhat Trust), and RC Ventures breached their fiduciary duties to 40 Ventures." But again, to the extent that the complained-of actions are those taken by the board, 40 Ventures cannot sustain a breach-of-fiduciary-duties claim against the members just because the members appointed governors to the board. 40 Ventures asserts that "allegations relate to actions taken by the members, *not* the governors, in violation of the *member*-control agreement." But the only alleged violations of the member-control agreements are the alleged violations of the supermajority requirements in section 3.3 of the MCA. 40 Ventures is alleging that the members breached their fiduciary duties through actions taken by the Aspire board, not by the members themselves.

40 Ventures also points to a general statement in the complaint that the allegations are against the other members "*both as shareholders* and directors." But even though 40

[8] 40 Ventures also cites Minn. Stat. § 322C.0409, subd. 1 (2018), which states that "[a] member of a *member-managed* limited liability company owes to . . . the other members the fiduciary duties of loyalty and care." (Emphasis added.) But, even if chapter 322C applies to 40 Ventures' breach-of-fiduciary-duty claim, the MCA states that the board, not the members, manages the business and affairs of Aspire. *See* Minn. Stat. § 322C.0407, subd. 1 (2018) (stating that LLCs are member-managed by default, unless the operating agreement provides that the company is managed by a board or by managers).

Ventures states that its claims are against respondents in their capacities as members of Aspire, it still needs to allege a breach of fiduciary duty. Because the only alleged conduct potentially amounting to a breach of fiduciary duties is the breach of the member-control agreement, and the breach of that agreement is based on the obligations of the board, not the members, 40 Ventures has failed to allege a legally sufficient claim of breach of fiduciary duties.[9]

II. 40 Ventures fails to state a claim against Waycrosse for tortious interference with contract.

"A cause of action for tortious interference with contract has five elements: (1) the existence of a contract; (2) the alleged wrongdoer's knowledge of the contract; (3) intentional procurement of its breach; (4) without justification; and (5) damages." *Sysdyne Corp. v. Rousslang*, 860 N.W.2d 347, 351 (Minn. 2015) (quotation omitted).

40 Ventures asserts that it sufficiently alleged the elements of a tortious-interference-with-contract claim against Waycrosse. It contends that the district court applied the wrong legal standard, as reflected in the district court's statement in its order that it "finds these allegations unpersuasive."

The district court does state that "the court finds these allegations unpersuasive." But given the context of that statement, it is clear that the district court meant that it found

[9] Because we affirm the dismissal of counts 1 through 9 on the basis that they are founded on actions of the board, not the members, we need not address two other decisions by the district court: (1) that 40 Ventures lacks standing to bring the breach-of-contract claims because the claims are derivative, not direct; and (2) that the breach-of-contract and breach-of-fiduciary-duty claims against 2006 Grayhat Trust are legally insufficient because a trust is not a proper party.

40 Ventures' *arguments* unpersuasive, not the allegations. The statement follows the district court's analysis of 40 Ventures' argument that certain factual allegations support its tortious-interference claim. The district court points out that those allegations only focus on the relationship between parties in the dispute, not on specific conduct that shows Waycrosse or its agent Posthumus caused a breach of contract. Nothing in the district court's analysis suggests that it did not accept 40 Ventures' factual allegations as true, as is required on a motion to dismiss for failure to state a claim.

40 Ventures alternatively contends that the district court mistakenly interpreted the tortious-interference claim as alleging that Waycrosse intentionally procured *40 Ventures'* breach of the MCA. But the district court did not conclude that the only possible breach had to come from 40 Ventures. Instead, the district court determined that, according to the complaint, the only actions that Waycrosse took through its agent were requesting that Montague sign the separation agreement and requesting that Montague return his computer and Aspire materials. These requests, the district court concluded, could not amount to the "intentional procurement" of a breach of contract, in part because Montague refused the requests. 40 Ventures assumes that the district court meant a breach by Montague or 40 Ventures, but the district court did not specify who it contemplated as the breaching party. 40 Ventures does not allege that anything in the MCA prevented Waycrosse from making its requests, and those requests could not have had a material impact on other parties' actions because Montague denied them.

We conclude that the district court's assessment is correct. The complaint alleges that Waycrosse participated in the removal of 40 Ventures' designee from the board, the

blocking of the appointment of another designee, the dissolution of Aspire, the sale of Aspire's assets, Jabejo's relinquishment of rights in Aspire, and the termination of Parker's employment and his removal from the board. But the only actions alleged to have been taken by Waycrosse are the requests made by Posthumus, which Montague denied, and responding to a phone call from Montague about his email access. 40 Ventures does not identify how this conduct could amount to the intentional procurement of a breach of contract, particularly when Montague denied the requests. Furthermore, 40 Ventures has not alleged a breach of contract, let alone the intentional procurement of one. The alleged breach identified by the complaint is that the members breached the MCA when the board did not comply with the supermajority provisions. As we discussed above, this was not a breach of contract by the members because the supermajority provisions did not apply to them. The complaint thus fails to state a claim against Waycrosse for tortious interference with contract.

III. 40 Ventures fails to state a claim for an order to disclose records.

40 Ventures argues that it stated a claim for an order granting access to Aspire's books based on Montague's request, or, alternatively, based on its own authority as a member of Aspire. 40 Ventures relies on Minn. Stat. § 322C.0410 (2018)[10] to argue that a member of a limited liability company may request certain records for a purpose material to the member's interest. But 40 Ventures does not allege that *it* requested documents and

[10] The parties do not dispute that chapter 322C controls the request for documents because Montague first requested documents after January 1, 2018, when chapter 322C took effect with respect to LLCs created before August 1, 2015.

records from Aspire; instead, it alleges that Montague did so in his capacity as a governor of Aspire. 40 Ventures contends that it should receive access to the documents based on Montague's request, but Minn. Stat. § 322C.0410, subd. 2, specifically delineates different rights to access documents for governors and members in board-managed LLCs. Respondents correctly point out that Montague is not a party to this lawsuit, and 40 Ventures cannot enforce Montague's rights to access Aspire's records.

40 Ventures alternatively argues that its complaint constitutes a separate request for records based on its status as a member of Aspire. But section 322C.0410, subdivision 2, requires members to make requests "[d]uring regular business hours and at a reasonable location specified by the company" and contemplates a ten-day period for the LLC to respond. A complaint filed with the district court is not "at a reasonable location specified by the company." 40 Ventures' claim is legally insufficient.

Affirmed.