

1. ANYA INC., ET AL. v. SANDHU, ET AL., 22CV0024**Motion for Leave to Amend Pleadings**

This action involves a management dispute between business partners. Plaintiff Sukheep Thind (“Sukhy”) is the principal of co-plaintiff Anya, Inc. (collectively, “Anya”), which holds a minority ownership interest in Stateline Brewery, LLC (“Stateline”). Anya is suing the other members who hold a majority of the ownership interest: Harpreet Sandhu (“Harry”), Tejpal Sahota (“TJ”), and Harbans Sahota (“Harbans”). Anya is also suing two family members of the defendant majority owners: Simrun Sandhu (“Simrun”) and Puneet Randhawa (“Puneet”).¹ Anya’s Third Amended Complaint (“TAC”) asserts causes of action (“C/A”) for (1) breach of fiduciary duty of care, (2) breach of fiduciary duty of loyalty, (3) defamation, (4) injunctive relief, and (5) restitution (4th and 6th C/A.)

Pending is plaintiffs’ motion to amend the TAC to add a C/A for dissociation against defendants TJ, Harry, and Harbans. Plaintiffs claim they recently learned from discovery responses that in 2022 the restaurant failed to report more than \$200,000 in tips to the Internal Revenue Service. (Mot. at 8:23–9:19.) Now, plaintiffs seek an additional remedy of dissociation pursuant to Corporations Code section 17706.02, subdivision (e) (*id.* at 9:25–10:7, 13:3–4), which provides for expulsion by judicial order when the person to be dissociated has done any of the following: (1) engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the limited liability company’s activities; (2) willfully or persistently committed, or is willfully and persistently committing, a material breach of the operating agreement or the person’s duties or obligations under Corporations Code section 17704.09; and (3) engaged, or is engaging, in conduct relating to the limited liability company’s activities that makes it not reasonably practicable to carry on the activities with the person as a member. (Corp. Code, § 17706.02, subd. (e)(1)–(3).)

¹ To avoid confusion, the court will refer to the parties by their preferred first names. The court intends no disrespect.

Preliminary Matters

As it relates to Ben Nicholson's declaration, defendants' Objection One is overruled and Objection Two is granted. As it relates to plaintiff Sukhy's declaration, defendants' Objections One and Two are both overruled.

Plaintiffs' requests for judicial notice are granted.

Defendants' request for judicial notice is granted.

Discussion

Trial is currently set to begin on August 28, 2023. Defendants contend that plaintiffs delayed in seeking this amendment, noting that defendants offered plaintiffs access to the company books and records in July 2021. (Opp. at 1:18–20.) Further, defendants argue that plaintiffs' proposed amendment should be denied due to prejudice, where the amendment will cause a delay in trial to allow for defendants to submit a responsive pleading and conduct related discovery. (Opp. at 7:19–20, 8:4–7.) Lastly, defendants argue that Corporations Code section 17706.2, subdivision (e) only allows for an "application" for dissolution by the company itself.² (Opp. at 8:18–9:4.)

Motions for leave to amend are directed to the sound discretion of the judge: "The court may, in furtherance of justice and on any terms as may be proper, allow a party to amend any pleading...." (Code Civ. Proc., § 473, subd. (a)(1).) The court's discretion will usually be exercised liberally to permit amendment of the pleadings. (See *Nestle v. Santa Monica* (1972) 6 Cal.3d 920, 939; *Mabie v. Hyatt* (1998) 61 Cal.App.4th 581, 596.) The policy favoring amendment is so strong that it is a rare case in which denial of leave to amend can be justified. (*Douglas v. Superior Court* (1989) 215 Cal.App.3d 155, 158.) "Leave to amend should be denied only where the facts are not in dispute, and the nature of the plaintiff's claim is clear, but under substantive law, no liability exists and no

² Defendant Stateline filed a joinder to the Opposition of defendants Harry, TJ, Harbans, and Simrun.

amendment would change the result.” (*Edwards v. Superior Court* (2001) 93 Cal.App.4th 172.)

The court agrees with defendants that Corporations Code section 17706.2, subdivision (e) only allows for an application for dissolution by the company itself. (Corp. Code, § 17706.2, subd. (e).) There being no amendment that would change this result, the court denies plaintiffs’ motion to amend the TAC.

TENTATIVE RULING # 1: PLAINTIFFS’ MOTION TO AMEND IS DENIED. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT’S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.