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Strategic Jubilee Holdings, LLC et al Order on Defendants' Motion to Strike

Elizabeth E. Long
Superior Court, Fulton County Judge

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**IN THE SUPERIOR COURT OF FULTON COUNTY
BUSINESS CASE DIVISION
STATE OF GEORGIA**

STRATEGIC JUBILEE HOLDINGS, LLC,)	
and JUBILEE MANAGER, LLC)	
)	
Plaintiffs,)	
)	
v.)	Civil Action File No. 2016CV283484
)	
JUBILEE DEVELOPMENT PARTNERS,)	
LLC, MINCHEW ENTERPRISES, LLC,)	
RONALD REESER, MASON DRAKE and)	
KENNETH MINCHEW,)	
)	
Defendants.)	

ORDER ON DEFENDANTS' MOTION TO STRIKE

Before this Court is Defendants' Motion to Strike, or in the Alternative, Motion to Dismiss Plaintiffs' Complaint for Violation of Georgia's anti-SLAPP Statute and Plaintiffs' Motion for Limited Discovery Related to Defendants' Motion to Strike. Having considered the briefs submitted and having heard oral arguments on April 13, 2017, the Court finds as follows:

This is a case regarding the control of Jubilee Manager, LLC ("JM"). JM was formed on March 10, 2015. Under the JM Operating Agreement entered into the same day, each member would contribute \$75,000 capital in exchange for a twenty percent interest in JM. Each member would select a manager and the management of JM would be vested in a board of managers. Plaintiff Strategic Jubilee Holdings, LLC ("Strategic") and non-party River Life made capital contributions and are each members with 20% interest. According to Schedule A of the JM Operating Agreement, Defendants Jubilee Development Partners, LLC ("JDP") and Minchew Enterprises, LLC ("ME") were to make capital contributions of \$150,000 and \$75,000 respectively, and hold a 40% interest and a 20% interest respectively. Plaintiffs allege JDP and

ME did not make any payments. However, in their Answer they argue they contributed sweat equity in lieu of capital.

On the same day JM was formed, another company called Jubilee Investment Holdings, LLC (“JIH”) was formed. JM was JIH’s managing member. On November 1, 2016, the five Defendants in this case along with JM sued Strategic, JIH, River Life, and others in Santa Rosa County, Florida. That Complaint alleged that JIH had failed to pay management and development fees under JIH Operating Agreement and alleged other wrongdoings in the control and management of JIH. On November 7, 2016, Ronald Reeser, manager of JM, wrote the Santa Rosa County Attorney and told him that a proposed donation to the County of property in the County was not approved by JIH and that the control of JIH was the subject of the Florida lawsuit. Plaintiffs voluntarily dismissed the Florida action on January 19, 2017.

Plaintiffs’ Complaint in this case seeks a declaratory judgment that JDP and ME are not members of JM since they failed to make the requisite capital contributions. Plaintiffs also raise a breach of contract claim against JDP and ME for failing to make their capital contributions under the JM Operating Agreement and a breach of fiduciary duty claim against Defendants Ronald Reeser, Mason Drake, and Kenneth Minchew, the managers appointed by JDP and ME, for failing to cause JDP and ME to pay their initial capital contributions.

Defendants seek to strike Plaintiffs’ Complaint as a violation of Georgia’s anti-SLAPP statute. The purpose of the anti-SLAPP statute is to ensure that “valid exercise of the constitutional rights of petition and freedom of speech” is not “chilled through abuse of the judicial process.” O.C.G.A. § 9-11-11.1(a).

(b)(1)A claim for relief against a person or entity arising from any act of such person or entity which could reasonably be construed as an act *in furtherance of the person's or entity's right of petition or free speech* under the Constitution of the United States or the Constitution of the State of Georgia in connection with an

issue of public interest or concern shall be subject to a motion to strike unless the court determines that the nonmoving party has established that there is a probability that the nonmoving party will prevail on the claim.

O.C.G.A. § 9-11-11.1(b) (emphasis added).

[T]he term ‘act in furtherance of the person's or entity's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Georgia in connection with an issue of public interest or concern’ *shall include*: [a]ny written or oral statement or writing or petition made before a ... judicial proceeding, or any other official proceeding authorized by law; [or] [a]ny written or oral statement or writing or petition *made in connection with* an issue under consideration or review by a ... judicial body, or any other official proceeding authorized by law[.]

O.C.G.A. § 9-11-11.1(c) (emphasis added).


The Court must first consider if O.C.G.A. § 9-11-11.1 applies. For the anti-SLAPP statute to apply, the claims for relief must arise from an act by Defendants “in furtherance of the person's or entity's right of petition or free speech.” Defendants claim their lawsuit in Florida was in furtherance of their right to petition and was “in connection with an issue of public interest or concern.”

Defendants argue the suit in Georgia was filed in retaliation for the filing of the Florida lawsuit and for Reeser’s letter to the Santa Rosa County Attorney. Even assuming the filing of the Florida lawsuit and the letter to the County Attorney were acts of free speech, the claims in the Georgia suit do not “arise from” these acts. The suit here is a dispute about corporate governance and membership in JM, a Georgia LLC, under the terms of Georgia LLC Code and the JM Operating Agreement. The Florida lawsuit concerned a private contract dispute and involved the investors in a different LLC and the management of that LLC. The letter of the County Attorney concerned property owned by JIH. The anti-SLAPP statute is not applicable.

Defendants’ Motion to Strike, or in the Alternative, Motion to Dismiss Plaintiffs’ Complaint for Violation of Georgia’s anti-SLAPP Statute is **DENIED**.

As there is sufficient evidence before the Court to find in favor of Plaintiffs without the need for limited discovery, Plaintiffs' Motion for Limited Discovery Related to Defendants' Motion to Strike is **DENIED as MOOT**.

SO ORDERED this 14 day of April, 2017.



JUDGE JOHN J. GOGER on behalf of
JUDGE ELIZABETH E. LONG
Superior Court of Fulton County
Business Case Division
Atlanta Judicial Circuit

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