

# ARIZA v. LAKESIDE VENTURES, LLC, et al.

22CV46059

## DEFENDANTS NORDYKE and TRILLO'S MOTION FOR PRELIMINARY INJUNCTION

Defendants Nordyke and Trillo seek a preliminary injunction to prohibit plaintiff from representing herself as the owner of the Lakeside Mobile Home Estate ("Park") and operating its business affairs. Defendants seek to restrain plaintiff from collecting park rents, failing to maintain the Park and allowing regulatory violations to continue that endanger the Park's continued operation and viability. Specifically, defendants claim that plaintiff has engaged in a pattern of collecting rent from various Park renters and entering into new rental agreements purporting to let spaces she is not legally entitled to lease, interfering with Park financial obligations, such as payments and payroll, and that plaintiff intends to continue taking those rent or lease payments. The motion is based on a request for judicial notice, declarations of moving parties and a co-defendant, as well as a memorandum of points and authorities that argues plaintiff has misappropriated rent monies belonging to defendants and redirected monies obtained from tenants of the Park for her benefit. Defendants argue that if plaintiff is not enjoined from these activities, she will continue to extract and misappropriate rent monies belonging to defendants before such a time that a permanent injunction can be issued, potentially leaving defendants without any substantial assets to operate and maintain the Park.

"A preliminary injunction is properly issued only upon an adequate evidentiary showing." (*Chico Feminist Women's Health Center v. Scully* (1989) 208 Cal.App.3d 230, 247.) Code of Civil Procedure § 527, subd. (a) provides that courts may grant a preliminary injunction upon evidence that "show[s] satisfactorily that sufficient grounds exist." A preliminary injunction is appropriate where the moving party is likely to succeed on the merits and the harm to the movant caused by denying the injunction would outweigh the harm to the opposing party from granting the injunction. (*Cohen v. Board of Supervisors* (1985) 40 Cal.3d 277, 286.)

The court may grant a preliminary injunction "at any time before judgment upon a verified complaint, or affidavits if the complaint in the one case, or the affidavits in the other, show satisfactorily that sufficient grounds exist therefor . . . ." (CCP 527(a)). In deciding whether to issue a preliminary injunction, the court must weigh two interrelated factors: (1) the likelihood that the plaintiff will prevail on the merits; and (2) the relative balance of harms that is likely to result from the granting or denial of interim injunctive relief. (*White v. Davis* (2003) 30 Cal. 4th 528, 554.) A trial court has broad discretionary powers to grant or deny a request for a preliminary injunction if it does not act capriciously. The court should exercise its judgment in favor of the party most likely to be injured. (*Robbins v. Superior Court* (1985) 38 Cal.3d 199, 205.)

"Irreparable harm" arises when monetary damages would not be sufficient to remedy the injury. (*Wind v. Herbert* (1960) 186 Cal.App.2d 276, 285; Code Civ. Proc. § 527(a)4.) Injuries arising from wrongs of "continuing character" may also constitute "irreparable harm." (*People ex rel. Gow v. Mitchell Bros.' Santa Ana Theater* (1981) 118 Cal.App.3d 863, 871.) Damage to a relationship between a landlord and its tenants can constitute a form of irreparable harm. Defendants contend that plaintiff's actions, which have repeatedly endangered their ability to make repairs, payroll, and other necessary expenses, have endangered the Park's relationship with regulatory agencies, its employees, and its entire existence. (*Donahue Schriber Realty Group, Inc. v. NU Creation Outreach* (2014) 232 Cal.App.4th 1171.)

In opposition, plaintiff does not attack the sufficiency of defendants' evidence to support their contentions nor does she provide any evidence that contradicts the claims concerning rent, expenses, regulatory compliance, park operations and payroll; instead, plaintiff claims that an uncompleted real property sale gives her a superior right to the Park and its assets over moving parties, including control of Park revenues and operations, and therefore she is entitled to collect rents and otherwise operate the Park. Plaintiff also disparages defendants and supporting declarant's character and intentions in her opposition but provides no underlying facts in support of her portrayal or position. Defendants have offered concrete evidence with specific details showing that plaintiff's conduct endangers Park's viability and existence, while plaintiff has not shown any particularized injury by issuance of an injunction and largely just asserts improper character evidence

In ruling on the plaintiff's objections to Request for Judicial Notice, the court Sustains the objections under Evidence Code §§ 401, 452, and 1200 as lacking foundation, involving matters beyond the scope of what is properly judicially noticed, and hearsay. Therefore, defendants' Request for Judicial Notice is DENIED.

Plaintiff did not request an undertaking in any specified or justified amount; the Court treats this as a waiver of any undertaking in the event the preliminary injunction is issued.

The balance of harms favors the issuance of the requested injunction, excepting items (9) through (13) as reaching the ultimate merits of the case; items (1) through (8) will allow defendants to operate the Park pending resolution of this litigation, and if any past amounts were wrongfully collected this will appropriately be addressed as a matter of damages. Based on the foregoing, the court GRANTS the Preliminary Injunction as detailed above.

The Clerk will provide notice of this ruling to the parties forthwith. The defendants are to prepare a formal order pursuant to Rule of Court 3.1312 in conformity with this ruling.

**TRYON v. ANGELS GUN CLUB, INC.**

**17CV42160**

**CROSS-COMPLAINANT'S MOTION FOR LEAVE TO FILE  
FOURTH AMENDED CROSS-COMPLAINT**

Cross-Complainant Angels Gun Club, Inc., moves for leave to file a Fourth Amended Cross-Complaint to include all Tryon family members in title to the subject real property. The causes of action largely track the earlier cross-complaint.

The court generally affords great liberality to a party to file an amended pleading. (See *Cal. Gasoline Retailers v. Regal Petroleum Corp.* (1958) 50 Cal. 2d 844, 851.) However, where a party would be prejudiced by amendment or there was unnecessary delay in seeking amendment, the court may deny leave to file an amended pleading. Cross-defendant argues that cross-complainant has inexcusably delayed the request and that actual prejudice exists.

In addressing the questions of unnecessary delay and prejudice to cross-defendant, the court is persuaded that pleadings to include all family members on title to the real property is necessary for any enforceable resolution. Additionally, the court considered the reply declarations which clarified the issues (though they were arguably beyond the scope of the underlying motion).

Motion for Leave to File Fourth Amended Cross-Complaint is GRANTED.

The Clerk shall provide notice of this Ruling to the parties forthwith. Moving party to submit a formal order pursuant to Rule of Court 3.1312 in conformity with this ruling.