

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SACRAMENTO
GORDON D SCHABER COURTHOUSE

MINUTE ORDER

DATE: 05/14/2013

TIME: 02:00:00 PM

DEPT: 53

JUDICIAL OFFICER PRESIDING: David Brown

CLERK: E. Brown

REPORTER/ERM:

BAILIFF/COURT ATTENDANT: C. Chambers

CASE NO: **34-2012-00130439-CU-MC-GDS** CASE INIT.DATE: 10/01/2012

CASE TITLE: **The National Grange of the Order of Patrons of Husbandry vs. The California State Grange**

CASE CATEGORY: Civil - Unlimited

EVENT ID/DOCUMENT ID: ,9681631

EVENT TYPE: Hearing on Demurrer - Civil Law and Motion - Demurrer/JOP

MOVING PARTY: The National Grange of the Order of Patrons of Husbandry

CAUSAL DOCUMENT/DATE FILED: Demurrer, 02/28/2013

APPEARANCES

Nature of Proceeding: Hearing on Demurrer to CA Grange Cross-Complaint

TENTATIVE RULING

The Demurrer by Cross-defendants The National Grange of the Order of Patrons of Husbandry ("National Grange") and Edward L. Luttrell to the Cross Complaint of the California State Grange ("California Grange") is **OVERRULED**.

The National Grange's Request for Judicial Notice is **GRANTED**, in part. A court may take judicial notice of the *existence* of each document in a court file, but can only take judicial notice of the truth of facts asserted in documents such as orders, findings of fact and conclusions of law, and judgments. *Bach v. McNelis* (1989) 207 Cal. App. 3d 852, 865.

The Cross-complaint of the California State Grange sets forth six causes of action: the 1st for conversion, the 2nd for tortious interference with contract, the 3rd for intentional interference with prospective economic advantage, the 4th for unfair competition, the 5th for unjust enrichment and the 6th for declaratory relief. Cross-defendants demur to each for failure to state facts sufficient to constitute a cause of action.

If the pleading sufficiently states a cause of action the demurrer cannot be granted on the basis of a showing of extrinsic matters by inference from attached exhibits, affidavits or otherwise except those matters which are subject to judicial notice. *Executive Landscape Corp. v. San Vicente Country Villas IV Assn.* (1983) 145 Cal. App. 3d 496, 499.

Subject Matter Jurisdiction

National Grange demurs to the entire cross-complaint on the grounds that this Court lacks subject matter jurisdiction to determine the rights and duties of the members of private voluntary associations, in all matters affecting its internal government and the management of its affairs, measured by the terms of its constitution and by-laws. internal operations of private associations. (See *California Dental Assn. v.*

American Dental Assn. 23 Cal.3d 346, 353.)

Here, however, the National Grange has itself previously invoked the jurisdiction of this Court to adjudicate the private association's dispute described in its Complaint filed October 1, 2012, requesting declaratory and injunctive relief as against defendants California Grange and the individually named defendants. The National Grange's argument that the Court should now refrain from adjudicating the cross-complaint of California Grange therefore carries less weight.

The demurrer on this ground is **OVERRULED**.

Demurrer to the 1st for conversion, is **OVERRULED**.

California Grange has alleged that specific sums of money have been converted by National Grange; the dues collected from the subordinate Granges. These sums of money are specific and capable of identification, which is sufficient to state a cause of action. *Fischer v. Machado* (1996) 50 Cal. App. 4th 1069, 1072.

National Grange's Demurrer to the 2nd for tortious interference with contract, is **OVERRULED**.

The elements of the tort of interference with contract are (1) a valid contract between the plaintiff and a third party; (2) the defendant's knowledge of the contract; (3) the defendant's intentional acts designed to induce a breach or disruption of the contractual relationship; (4) actual breach or disruption of the relationship; and (5) resulting damage. *Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 55; *Pacific Gas & Electric Co. v. Bear Stearns & Co.* (1990) 50 Cal.3d 1118, 1126.

California Grange has alleged that National Grange and Luttrell were aware of the contracts (bylaws) and other agreements that existed between California Grange and the Subordinate Granges which included, among other things, the requirement for Subordinate Granges to pay dues to California Grange. National Grange and Luttrell engaged in intentional conduct designed to disrupt the contractual relationships between California Grange and the Subordinate Granges. (CC, paras. 22, 22)

The National Grange is not alleged to be a party to the contractual agreements between California Grange and the Subordinate Granges. As the Court has declined to take Judicial Notice of the truth of the exhibits to the National Grange's complaint, and must accept the allegations of the cross-complaint as true on demurrer, the demurrer to this cause of action by National Grange must be overruled.

Luttrell's Demurrer to the 2nd cause of action for tortious interference with contract, is also **OVERRULED**.

Cross-defendant Edward L. Luttrell ("Luttrell") is alleged to be an individual and an officer of National Grange. In all relevant respects, Luttrell personally participated in and directed the tortious conduct alleged herein on behalf of National Grange.

National Grange's alleged interference with California Grange's collection of dues from its Subordinate Granges is alleged to have been made through its President, Luttrell, has under threat of suspending the Subordinate Grange's charters if they fail to comply.

Moving party Luttrell relies upon *Klein v. Oakland Raiders* (1989) 211 Cal. App. 3d 67, 81, for the proposition that as Luttrell was acting in his capacity as the President of National Grange, rather than in his individual capacity, he cannot be personally liable.

However, that case provides that where the employee commits a tort, he is personally liable except

where he commits the tort of intentionally interfering with his employer's contracts. Even where the employee acts on behalf of his employer in interfering with contracts to which the employer is not a party, he is liable for intentional interference. *Klein v. Oakland Raiders* (1989) 211 Cal. App. 3d 67, 81.

Demurrer to the 3rd for intentional interference with prospective economic advantage, is **OVERRULED**.

The elements which a plaintiff must plead to state a cause of action for intentional interference with prospective economic advantage are (1) a valid contract between plaintiff and a third party; (2) defendant's knowledge of this contract; (3) defendant's intentional acts designed to induce a breach or disruption of the contractual relationship; (4) actual breach or disruption of the contractual relationship; and (5) resulting damage. *Buckaloo v. Johnson*(1975) 14 Cal. 3d 815, 827

For the reasons set forth above, the demurrers by National Grange and Luttrell must be overruled.

Demurrer to the 4th for unfair competition, is **OVERRULED**.

As the Court has not accepted the truth of the By Laws attached to plaintiff's complaint on demurrer to cross-complaint's pleading, the Court cannot make the ultimate factual determination requested by moving party.

Demurrer to the 5th for unjust enrichment, is **OVERRULED**.

The elements of an unjust enrichment claim are the receipt of a benefit and the unjust retention of the benefit at the expense of another. *Peterson v. Celco Partnership* (2008)164 Cal. App. 4th 1583, 1593.

California Grange has pled sufficient facts to state a cause of action.

Demurrer to the 6th for declaratory relief, is **OVERRULED**.

Moving parties attack this cause of action on the same grounds overruled in the subject matter jurisdiction section.

Cross-defendants shall file and serve their Answers to the California Grange's cross-complaint not later than Friday, May 24, 2013.

This minute order is effective immediately. No formal order nor further notice is required, the tentative ruling providing sufficient notice.

COURT RULING

There being no request for oral argument, the Court affirmed the tentative ruling.