

Corporate & Financial Weekly Digest

Posted at 12:59 PM on January 21, 2011 by [Bruce M. Sabados](#)

Third Party "Alter Ego" Subpoena Quashed

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The U.S. District Court for the District of Nevada quashed a third party subpoena on a bank because the subpoena was overbroad.

Plaintiffs sued a series of individuals and corporate entities for construction defects, fraud and conspiracy. Plaintiffs alleged that the defendants “converted property and misled them through incomplete repairs, non-disclosures, misinformation, inaccurate reserves and an inadequate budget, into purchasing” the subject properties. Plaintiffs later amended their complaint to add allegations that the various defendants were alter egos of each other, and issued a third party subpoena to a bank requesting “any and all banking records” concerning the defendants, including “but not limited to, any and all e-mails, correspondence, etc.”

The court acknowledged that, to establish alter ego liability, plaintiffs can normally review the records of “corporate assets, transactions, management proceedings and other information relevant to piercing the corporate veil.” However, such discovery is still limited to the relevance standard in the Federal Rules of Civil Procedure. The court found that the plaintiffs’ subpoena, by seeking all banking information relating to the defendants, and not just information that might relate to the lawsuit, was overbroad. The court suggested that plaintiffs could depose certain defendants or direct specific interrogatories to them regarding their alter ego claim, which might assist the plaintiffs in creating a more targeted subpoena, and quashed the subpoena. (*Copper Sands Home Owners Assoc’n, Inc. v. Copper Sands Realty, LLC*, 10 Civ. 00510 (GMN)(LRL), 2011 WL 112146 (D. Nev. Jan. 13, 2011))

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