

THE PRACTICAL IMPACT OF CALIFORNIA'S EQUITY-FIRST RULE ON SETTLEMENT VALUE AND CHOICE OF LITIGATION FORUM

The California Court of Appeal's recent decision in Hoopes v. Dolan, Case No. A117892 (1st Dist., 4th Div., November 12, 2008), is a reminder that, in a civil action involving a combination of legal claims that are triable by a jury and equitable claims that are triable only by a judge, litigants and their counsel should carefully consider the order in which California state and federal rules require those claims to be tried. Especially where the legal and equitable claims turn on the same facts, those rules are likely to have a uniquely significant impact on: (1) any estimate of the settlement value of the case; and (2) whether state or federal court is the more attractive forum.

A "jury trial is a matter of right in a civil action at law, but not in equity." C & K Eng'g Contractors v. Amber Steel Co., 23 Cal. 3d 1, 8 (1978) (citations and internal quotations omitted). When both legal and equitable claims are raised in a single action, the legal claims are triable by a jury and the equitable claims are triable separately by the court. Hoopes, Slip Op. at 9. The order in which these separate trials occur "has great significance because the first factfinder may bind the second when determining factual issues common to the equitable and legal" claims. Id.

In California state courts, "the equitable claims are properly tried first by the court. A principal rationale for this approach" is that when "an action involves both legal and equitable issues, the equitable issues, ordinarily, are tried first, for this may obviate the necessity for a subsequent trial of the legal issues" by a jury. Nwosu v. Uba, 122 Cal. App. 4th 1229, 1238 (2004). See also, e.g., Raedeke v. Gib. Sav. & Loan Ass'n, 10 Cal. 3d 665, 671 (1974) ("in a case involving both legal and equitable issues, the trial court may proceed to try the equitable issues first . . . and that if the court's determination of those issues is also dispositive of the legal issues, nothing further remains to be tried by a jury"). In contrast, federal courts usually try legal claims before equitable claims. Beacon Theatres, Inc. v. Westover, 359 U.S. 500, 510-11 (1959). When this occurs, the court that tries the equitable claims must "must follow the jury's factual determinations on common issues of fact." Hoopes, Slip Op. at 10.

Relying on the California state court rule, the defendants in Hoopes, an action for breach of a commercial lease and related claims, requested that their affirmative defense of equitable estoppel and their cross-claims for the equitable remedies of declaratory and injunctive relief be tried first without a jury. Hoopes, Slip Op. at 5. The Superior Court denied the request, the case proceeded first to a jury trial on the legal issues raised by the plaintiff's claims, and the jury returned a verdict in favor of the plaintiff. Id. at 6.

At a subsequent hearing on the equitable issues, the Superior Court ruled that the defendants had proved their equitable estoppel defense, granted the defendants' request for declaratory and injunctive relief, and entered judgment in the defendants' favor on all of the plaintiff's claims and the defendants' cross-claims. Hoopes, Slip Op. at 7. In making these rulings, the Superior Court "rejected" certain of the jury's factual findings "and made its own independent evaluation of the evidence." Id.

The Court of Appeal held that the Superior Court “erred in disregarding the jury’s verdict in fashioning equitable relief.” Hoopes, Slip Op. at 12. The Court of Appeal distinguished cases in which a judge responsible for trying equitable claims exercises his or her authority to empanel a jury to make *advisory* findings of fact concerning those claims. Id. In such cases, the Court of Appeal emphasized, the trial court “is not bound by the jury[’s] findings.” Id. The Court of Appeal likewise emphasized that “a trial court is not bound by the jury’s verdict and must make its own independent evaluation of the evidence if an equitable action is erroneously submitted to a jury.” Id. at 13.

Despite the Superior Court’s error in disregarding the jury’s factual findings in favor of the plaintiff on the legal claims, the Court of Appeal affirmed the judgment because: (1) the Superior Court’s resolution of the equitable estoppel defense rested on distinct facts that the jury had not been asked to decide; and (2) that defense alone was a sufficient basis for the grant of declaratory and injunctive relief to the defendants. Hoopes, Slip Op. at 14-20.

Thus, in Hoopes, the failure to try the legal and equitable claims in the proper order did not affect the correct resolution of the merits because the claims turned on different facts. However, if the legal and equitable claims there had turned on the same facts, the jury’s resolution of the legal claims in the plaintiff’s favor would have required the Court of Appeal to reverse the Superior Court’s contrary resolution of the equitable claims in the defendants’ favor. This underscores that it is especially important for litigants and counsel to carefully consider the order in which legal and equitable claims must be tried where (unlike in Hoopes) the claims turn on the same facts. In that situation, the order of trial is uniquely significant for at least two reasons.

First, the requirement that equitable claims be tried first effectively eliminates any meaningful right to a jury trial of legal claims that turn on the same facts. This reality likely will have a significant impact on any estimate of the settlement value of the action if it proceeds in state court.

Second, the opposite federal rule requiring legal claims to be tried first may make the federal court a particularly attractive forum for plaintiffs that wish to preserve their right to a jury trial for legal claims that turn on the same facts as equitable claims. On the other hand, defendants may justifiably decide not to remove a California state-court action to federal court in order to minimize the number of claims or issues that are subject to resolution by a jury.