National Grange of the Order of Patrons of Husbandry v. California State Grange et al.

2016 | Cited 0 times | E.D. California | November 15, 2016

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

----oo0oo----

THE NATIONAL GRANGE OF THE ORDER OF PATRONS OF HUSBANDRY, a District of Columbia nonprofit corporation, and THE CALIFORNIA STATE GRANGE, its chartered California chapter,

Plaintiffs, v.

CALIFORNIA STATE GRANGE d/b/a California Guild, a California corporation, and ROBERT McFARLAND, a California resident, Defendants.

CIV. NO. 2:16-201 WBS DB MEMORANDUM AND ORDER RE: MOTION TO DISMISS

----oo0oo----

Plaintiffs the National Grange and the California State brought this action against

defendants the California Guild 1

and Robert McFarland , alleging that defendants are falsely representing themselves to be the same organization as or responsible for the history and achievements of the California State Grange. t No. 75).) Presently before the court is motion to dismiss omplaint or, in the alternative, for a more definite statement of claims. to Dismiss (Docket No. 77).) I. Factual and Procedural Background The National Grange is a nonprofit fraternal organization founded in 1867 to promote the interests of rural America and agriculture. (FAC ¶ 15.) It provides goods and services to agricultural communities and is involved in some 2,100 towns across the country. (Id.) The National Grange created the California State Grange as its California affiliate in 1873. (Id. ¶ 16.) As a chartered affiliate, the California State Grange collects dues from local granges across California and turns over a portion of those dues to the National Grange. (Id.) In 1946, the California State Grange registered as a corporation with the California Secretary of State. (Id.) The California State Grange elected McFarland as its leader in 2009. (Id. ¶ 17.) In 2012, disputes arose between the National Grange and

1 A central issue in this and previous proceedings is

orders, all Order refer to plaintiffs, not defendants.

members of the California State Grange. (Id.) As a result, the National Grange revoked the membership and the two sides disaffiliated in 2013. (See id. Mot. -1).) Members of the disaffiliated chapter, led by McFarland, continued to exist as a separate entity under the corporate charter filed in 1946. (Mem. at 3-4.) The National Grange chartered a new California State Grange in 2014. (Id. at 7.) What resulted after the split, then, were two California entities: a newly chartered California State Grange (i.e., along with the National Grange, plaintiffs to this action) and a disaffiliated entity led by McFarland (i.e., defendants). After the split, defendants continued to use the registered corporate name and represent themselves publically as the California State Grange. (Id. at 3- 4.) In March 2014, the National Grange filed an action against the disaffiliated entity for federal trademark infringement, trademark dilution, trademark counterfeiting, and false advertisement under the Lanham Act Grange I . (Id. at 4.) On July 14, 2015, this court granted the National Grange summary judgment on its trademark infringement and false advertisement claims. 2 Husbandry v. Cal. State Grange, Civ. No. 2:14-676 WBS DAD, 115 F. Supp. 3d 1171, 1183 (E.D. Cal. 2015). The court permanently

2 The National Grange voluntarily dismissed its remaining Grange I claims with prejudice. Patrons of Husbandry v. Cal. State Grange, Civ. No. 2:14-676 WBS AC, 2016 WL 1587193, at *3 n.2 (E.D. Cal. Apr. 20, 2016).

but declined to extend that prohibition to include the words and because the National Grange did not expressly seek such relief in its Grange I complaint. See l Grange of the Order of Patrons of Husbandry v. Cal. State Grange, Civ. No. 2:14-676 WBS DAD, 2015 WL 5813681, at *2-*3 (E.D. Cal. Sept. 30, 2015), modified, Civ. No. 2:14-676 WBS AC, 2016 WL 1587193 (E.D. Cal. Apr. 20, 2016).) The parties have appealed Grange I to the Ninth Circuit, where it is currently pending.

Grange, Civ. No. 2:14- (E.D. Cal. Apr. 20, 2016). After Grange I, the disaffiliated entity changed its corporate name to Mem. at 6.) Since that time, it has continued to publicly refer to itself as (Decl. of Ed Komski Ex. 2, CSG Website Screenshots (Docket No. 54-3).) Simultaneous to litigation in this court has been litigation in the California Superior Court over ownership of the California State Grange property. Mem. at 6.) On August 18, 2015, the Superior Court entered judgment in favor of the National Grange and ordered that the California Guild

in its possession or control as of the date its Charter was revoked. (FAC Ex. 1, State Ct. Docs. at 33 (Docket No. 75-1).) Defendants have appealed that order as well. (FAC ¶ 140.) On February 1, 2016, plaintiffs brought the present

action against defendants. (Compl. (Docket No. 1).) Plaintiffs allege that since Grange I, defendants have continued to engage in activities that damage their reputation and goodwill, such as taking achievements, misappropriating Grange trademarks and copyrights, spreading false rumors about

Grange membership, and misrepresenting themselves to be successors to the California State Grange. (See FAC ¶¶ 18, 20, 24, 45.)

Plaintiffs bring the following causes of action against defendants: (1) false designation of origin under the Lanham Act, 15 U.S.C. § 1125(a)(1)(A); (2) false advertisement under the Lanham Act, 15 U.S.C § 1125(a)(1)(B); (3) false advertisement under the California Business and Professional Code, Cal. Bus. Prof. Code § 17500; (4) trademark infringement under the Lanham Act, 15 U.S.C. § 1114; (5) infringement of unregistered logo and trade dress under the Lanham Act, 15 U.S.C § 1125(a); (6) copyright infringement under federal law, 17 U.S.C. § 106; (7) trade libel under California common law; (8) intentional interference with contractual relations under California common law; (9) trespass under California common law; and (10) conversion under California common law. (Id. at 38-51.) Defendants n amended Complaint in its entirety or, in the alternative, for a more definite statement of claims -3.) II. Motion to Dismiss

On a motion to dismiss for failure to state a claim under Rule 12(b)(6), the court must accept the allegations in the pleadings as true and draw all reasonable inferences in favor of

the plaintiff. See Scheuer v. Rhodes, 416 U.S. 232, 236 (1974), overruled on other grounds by Davis v. Scherer, 468 U.S. 183 (1984); Cruz v. Beto, 405 U.S. 319, 322 (1972). To survive a

Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007).

to dismiss does not need detailed factual allegations, a

Twombly, 550 U.S. at 555 (citation

allegations contained in a complaint is inapplicable to legal Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).

A. False Designation of Origin, False Advertisement, and

Trademark Infringement Under the Lanham Act Five causes of action--false designation of origin, federal false advertisement, state false advertisement, infringement of unregistered logo and trade dress, and trademark infringement--arise under or require substantially the same proof as section 43(a) of the Lanham Act on , 15 U.S.C. 1125(a). False designation of origin arises under section 43(a)(1)(A), and federal false advertisement arises under section 43(a)(1)(B). L l, Inc. v. Static Control Components, Inc. 1125(a) thus creates two distinct bases of liability: false association,

False advertisement under the California Business and Professional Code requires the same proof as federal false advertisement. See Homeland Housewares, LLC v. Euro-Pro Operating LLC, No. CV 14-03954 DDP MANX, 2015 WL 476287, at *2

de under the Lanham Act. Therefore, the Court analyzes the state and federal false advertising claims (internal citation omitted)).

Trademark infringement under section 32(1) of the Lanham Act requires the same proof as false designation of origin. 3

See Brookfield Commc'ns, Inc. v. W. Coast Entm't Corp.,

[embodied in section 32(1) of the Lanham Act] is embodied in Grey v. Campbell Soup Co., 650 F. Supp. 1166, 1173 (C.D. Cal. 1986) for infringement of a federally registered mark under § 32(1) . . . [and] unfair competition under § 43(a), 15 U.S.C. § 1125(a) . . , aff'd, 830 F.2d 197 (9th Cir. 1987).

appears to be the same claim as false designation of origin.

3 The key distinction between trademark infringement and false designation of origin to federally registered marks applies to both registered and unregistered trademarks Brookfield Commc'ns, Inc. v. W. Coast Entm't Corp., 174 F.3d 1036, 1046 n.6 (9th Cir. 1999). That distinction is not relevant here because plaintiffs have alleged infringement of both registered and unregistered trademarks. (See FAC ¶¶ 125, 135.)

Plaintiffs cite section 43(a) as the statutory basis for but the court is not aware of any case holding that it is a separate cause of action from false designation of origin. 4

Moreover, plaintiffs concede that to the extent is not alleged with is subsumed by the false designation of origin gly, the court will

and trade dress.

The only section 43(a) claims that the court must decide whether plaintiff plausibly alleged, therefore, are false designation of origin and false advertisement.

1. False Designation of Origin The Ninth Circuit has held that a false designation of origin claim under section 43(a)(1)(A) requires proof that [d] in commerce (2) any word, false designation of origin, false or misleading description, or representation of fact, which (3) is likely to cause confusion or misrepresents the characteristics of his or another s goods or services. Freecycle Network, Inc. v. Oey, 505 F.3d 898, 902 (9th Cir. 2007); see also Luxul Tech. Inc. v. Nectarlux, LLC, 78 F. Supp. 3d 1156, 1170 (N.D. Cal. 2015) (holding the same). [C] as used in the Lanham Act . . . include[s]

4 of unregistered marks and trade dress as well as registered mark Brookfield, 174 F.3d at 1047 n.8.

all commerce which may lawfully be regulated by Congress. It is well settled that so defined

commerce [means] interstate Thompson Tank & Mfg. Co. v. Thompson, 693 F.2d 991, 993 (9th Cir. 1982).

The Ninth Circuit has held that interstate commerce for includes int Id. at 992 93. Additionally, courts in this circuit have held that communications made on public websites are made in interstate commerce. See United States v. Sutcliffe, 505 F.3d 944, 952-53 (9th T]he Internet

(internal citation omitted).); Homeland Housewares, LLC v. Euro- Pro Operating LLC, No. CV 14-03954 DDP MANX, 2015 WL 476287, at [product] review on a widely-available website is placing a statement into interstate Plaintiffs allege that defendants are representing, via public websites, that they are the same organization as or responsible for the history and achievements of the California State Grange. (See FAC ¶¶ 20-26, 69.) Such representations are allegedly the California State Grange and, in turn, the National Grange. (Id. ¶¶ 78, 83.) s are available on public websites and allegedly damaging the National s reputation, they are made in interstate commerce.

Defendants also challenge whether the California State Grange and California Guild can be said to engage in to begin with. (See According to defendants, the two groups are -profit corporations that do not engage in

coverage under the Lanham Act. (Id.) Contrary to that argument, federal courts in this circuit and others have nonprofit organization does not preclude its speech from being

l Servs. Grp., Inc. v. Painting & Decorating Contractors of Am., Inc., No. SACV06- 563CJC(ANX), 2006 WL 2035465, at *4 (C.D. Cal. July 18, 2006). In keeping with that understanding, federal courts routinely hold nonprofit entities liable under section 43(a). See, e.g., Comm. for s High Desert, Inc. v. Yost, 92 F.3d 814, 822 (9th Cir. 1996) (applying section 43(a) to -profit advocacy ; Natl Servs. Grp., 2006 WL 2035465, at *4 (holding that

painter may be liable under section 43(a)); l, Inc. v. Gideon 300 Ministries, Inc., 94 F. Supp. 2d 566, 568, 577 (E.D. Pa. 1999) (applying section 43(a) to nonprofit religious groups). Accordingly, argument fails.

Plaintiffs allege that defendants are making representations that confuse the public as to the identity of the California State Grange and California Guild. According to plaintiffs, defendants are: (1) taking credit for the California , 5

(see FAC ¶¶ 20-26, 42,

5 Specifically, plaintiffs allege that defendants are making statements along the lines of the following:

The CSG . . . is the oldest agricultural organization in California, started in 1870. Cities and

townships have

76): (2) copying logos, backdrop, and content from the California s website as to make their website look identical to website, (see id. ¶¶ 18, 24-25, 30); and (3) use the soliciting Grange dues, using Grange bank accounts, and performing Grange rituals using Grange regalia, (see id. ¶¶ 45-47, 68, 75-76, 112, 125, 128). Such activities members and resulted in some members disaffiliating from plaintiffs to join defendants. 6

(Id. ¶¶ 75, 79, 130.)

grown up around our rural halls . . . . The CSG has lobbyists in Sacramento and boasts a long history of successful legislative advocacy. The CSG was the first organization to support and promote women as equal voting members. . . . In these uncertain times our members find comfort and security by returning to our roots and reaffirming principles and goals set by the founders 140 years ago. (FAC ¶ 20 (internal citation omitted).) As explained in the motion for preliminary injunction, while defendants are technically correct when they refer to themselves as having existed since 1946 because they continue to occupy the California their other statements--namely, their references to a history prior to 1946--are undeniably false. (See Sept. 23, 2016 Order at 12 (Docket No. 93).)

6 Defendants note that they use disclaimers that refer to

Patrons of is unknown to the California

granges.

Uncred achievements may as to give rise to liability under section 43(a). See, e.g., ITEX Corp. v. Glob. Links Corp., 90 F. Supp. 3d 1158, 1171 (D. -year history of unaffiliated company violates section 43(a)); Riggs Inv. Mgmt. Corp. v. Columbia Partners, L.L.C., 966 F. Supp. 1250, 1267 (D.D.C. 1997) (investment company violated section 43(a) when it represented itself as responsible for another investment record). Use of substantially similar website logos and backgrounds may also give rise to liability under section 43(a). See, e.g., GoTo.com, Inc. v. Walt Disney Co., 202 F.3d 1199, 1206 (9th Cir. 2000) (holding that plaintiff is likely to succeed on section 43(a) claim where defendant used logo); CJ Prod. LLC v. Snuggly Plushez LLC, 809 F. Supp. 2d 127, 161 (E.D.N.Y. 2011) (holding that plaintiff is likely to succeed

.

The same is true of performance of similar functions, see, e.g., Platters, LLC, 25 F. Supp. 3d 1316, 1325 (D. Nev. 2014) (finding

, and misappropriation of trademarks, see Brookfield, 174 F.3d at 1046 n.6 (proving trademark

infringement proves violation of section 43(a)). 7

7 The cases cited here are false advertisement and analysis is applicable to false designation of origin because all

Because plaintiffs have plausibly alleged that defendants are making false or misleading representations in interstate commerce that confuse the public, they have stated plausible claims for false designation of origin and, by extension, trademark infringement.

2. False Advertisement The Ninth Circuit has held that a false advertisement

of fact by the defendant in a commercial advertisement about its own o s product 8

; (2) the statement actually deceived or has the tendency to deceive a substantial segment of its audience; (3) the deception is material, in that it is likely to influence the purchasing decision; (4) the defendant caused its false statement to enter interstate commerce; and (5) the plaintiff has been or is likely to be injured as a result of the false statement, either by direct diversion of sales from itself

false or misleading See Lexmark Intl, 134 S. Ct. at 1384 (holding that false designation of origin and false advertisement each arise under section 43(a)(1)); Luxul Tech, 78 F. Supp. To establish a claim for either trademark infringement or false designation of origin under § 43(a)(1)(A) . . . a plaintiff must prove that the defendant (1) used in commerce (2) any word, false designation of origin, false or misleading description, or representation of fact . . . .

8 these purposes means false or misleading. See Southland Sod Farms v. Stover Seed Co., 108 F.3d 1134, 1139 (9t To demonstrate falsity within the meaning of the Lanham Act, a plaintiff may show that the statement was literally false . . . or that the statement was literally true but likely to mislead or confuse consumers.

to defendant or by a lessening of the goodwill associated with its product Southland Sod Farms v. Stover Seed Co., 108 F.3d 1134, 1139 (9th Cir. 1997).

section, plaintiffs have plausibly alleged that defendants are making false or misleading representations in interstate commerce that is causing confusion among local granges, some members to disaffiliate from plaintiffs, and loss of goodwill. That is enough to satisfy each prong of Southland Sod Farms. Accordingly, plaintiffs have stated plausible claims for false advertisement under the Lanham Act and, by extension, section 17500 of the California Business and Professional Code.

3. Lanham Act claims. First, they argue that the representations plaintiffs attribute to them constitute protected political speech under the First Amendment -11.) It is well established or

misleading commercial speech, however. Amarin Pharma, Inc. v. U.S. Food & Drug Admin., 119 F. Supp. 3d 196, 228 (S.D.N.Y. 2015); see also Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc., 425 U.S. 748, 771 72 (1976)

protected fo At least some statements and representations plaintiffs attribute to defendants under the authorities cited above. See ITEX Corp., 90 F. Supp. 3d at 1171; Riggs Inv. Mgmt. Corp., 966 F. Supp. at 1267; GoTo.com, Inc., 202 F.3d at 1206; CJ Prod. LLC, 809 F.

Supp. 2d at 161; Herb Reed Enterprises, 25 F. Supp. 3d at 1325; Brookfield, 174 F.3d at 1046 n.6. That speech is not protected. Accordingly, First Amendment grounds.

Second, defendants cite to cases holding that mere cannot serve as bases of liability under the Lanham Act -11.) Those cases are

not mere criticism or opinion, but assertions of fact. (See, e.g., FAC ¶ 20 (defendants claim that is the oldest agricultural organization in California, started in 1870. . . . [That t]he CSG was the first organization to support and promote women as equal voting members. . . . [That their] roots and reaffirming principles and goals [were] set by the founders 140 years ago) If defendants made clear to the public that their statements taking credit for history and achievements were merely statements of opinion, their argument may have merit. But under the facts alleged by plaintiffs, that is not the case.

Third, defendants argue that their representations are protected under the Noerr-Pennington doctrine, which holds that

are generally immune from statutory liability for their See Sosa v. DIRECTV, Inc., 437 F.3d 923, 929 (9th Cir. 2006). That doctrine extends to incidental to the prosecution of [a] Columbia Pictures rs, Inc., 944 F.2d 1525, 1528 (9th Cir. 1991), d, 508 U.S. 49 (1993). The

representations plaintiffs attribute to defendants rise far beyond , however. Taking credit for another history and achievements,

and performing the same rituals as another have nothing to do with the present litigation. None of that activity is related to defending a lawsuit. Accordingly, the court will not dismiss Noerr-Pennington grounds. 9

Lanham Act claims are barred under the doctrine of res judicata because the court already adjudicated those claims in Grange I. (See Mem. at 17-18.) Res judicata only bars claims that are identical to each other, however. Owens v. Kaiser Found. Health Plan, Inc., 244 F.3d 708, 713 (9th Cir. 2001) (citing W. Radio Servs. Co. v. Glickman, 123 F.3d 1189, 1192 (9th Cir.1997)). Where a transactional nucleus of facts as its predecessor, it is not barred. See id. at 714.

Grange I decided o and enjoined defendants from the use of that term (see Apr. 20 Order at 3).

9 With respect advertisement claim, defendants argue that a separate litigation privilege exists under California Civil Code section 47. (See -22 (noting that California Civil Code section ns by a litigant to a judicial proceeding that have some connection or logical relation to the Noerr-Pennington argument fails.

claims in this action is different from the conduct enjoined in Grange I. It involves more than merely the use of the word To the extent that the complaint here alleges that defendants are representing they are the same organization as the California State Grange, that they are responsible for the history and achievements of the California State Grange, or making other false or misleading representations causing confusion among local granges, it goes beyond the complaint in Grange I and seeks to enjoin different conduct. Accordingly, the court will not dismiss plai on res judicata grounds.

B. Copyright Infringement

To state a claim for copyright infringement, plaintiff

(2) that the defenda s exclusive Ellison v. Robertson, 357 F.3d 1072, 1076 (9th Cir. 2004) (citing 17 U.S.C. § 501(a)).

Here, plaintiffs have attached, as exhibits to their amended Complaint, copyright registrations for content on their website, including information about the California State and membership. (See FAC Ex. B, Copyright Registrations (Docket No. 75-2).) They allege that without permission, defendants copied such materials onto their website in violation of section 106 of United States Copyright Law, (see FAC ¶¶ 117-120), which confers upon copyright owners

U.S.C. § 106. Because plaintiffs have alleged ownership of the

materials, they have stated a plausible claim for copyright infringement.

Defendants argue that their website materials are not

copyright infringement claim, however, plaintiff need not prove identity of copied materials; substantial similarity suffices. See Shaw v. Lindheim plaintiff may establish copying by showing that the infringer had access to the work and that the two works are substantially

the website materials. (See, e.g., FAC ¶ 20 (alleging that d representation about its history and goodwill on its new website . . . were copied verbatim from the former California State Grange website except for the

Defendants also argue that plaintiffs did not rule out the possibility that they independently created the website materials after splitting from plaintiffs in 2013. (See Mem. at 24-25.) That argument misses the fact that plaintiffs allege defendants copied materials from their website with copyright registrations dated 2010. (FAC ¶¶ 117, 119; Copyright Registrations.) Accordingly, the court will not dismiss .

C. Trade Libel

rade libel is the publication

the publisher should recognize is likely to cause pecuniary loss

ComputerXpress, Inc. v. Jackson, 93 Cal. App. 4th 993, 1010 (4th Dist. 2001) (citing Leonardini v. Shell Oil Co., 216 Cal. App. 3d 547, 572 (3d Dist. 1989)). It encompasses

product of a business which are intended to cause that business Leonardini, 216 Cal. App. 3d at 572.

Plaintiffs allege that defendants disparage their name and goodwill by publicly claiming that the newly chartered California State Grange IS NOT the original California State Grange and not heir to the 146-year history that it has accrued since being founded in 1870. (FAC ¶¶ 20, 113.) The alleged statements are false, see supra note 5, and obviously calculated to cause loss of goodwill and membership to plaintiffs. Accordingly, plaintiffs have plausibly alleged trade libel.

D. Intentional Interference with Contractual Relations

must plead to state the cause of action for intentional interference with contractual relations are (1) a valid contract between plaintiff a s knowledge of this contract; (3) defen s intentional acts designed to induce a breach or disruption of the contractual relationship; (4) actual breach or disruption of the contractual relationship; and Pac. Gas & Elec. Co. v. Bear Stearns & Co., 50 Cal. 3d 1118, 1126 (1990).

that defendants are causing local granges to breach their contractual duties under Grange by-laws by convincing them to leave the California State

Grange to join the California Guild. 10

(See FAC ¶¶ 112-113.) They have not cited any by-laws that require local granges to remain members of the California State Grange, however. The by- laws plaintiffs cite merely require that local granges with the Constitution, By-Laws and Codes of the Grange at all (Id. ¶ 109.) There is no indication that such obligations include remaining members of the Grange. Moreover, plaintiffs have not alleged that Grange by-laws are contractual in nature--that is, that local granges offered and accepted consideration in becoming Grange members, that remaining in the Grange was part of the contract,

and so forth. Accordingly, plaintiffs have failed to state a plausible claim for intentional interference with contractual relations.

E. Trespass and Conversion

exercise of dominion over the property of another. The elements of a conversion claim are: (1) the plaintiff's ownership or right to possession of the property; (2) the defendant's conversion by a wrongful act or disposition of property rights; and (3) Hernandez v. Lopez, 180 Cal. App. 4th 932, 939 (4th Dist. 2009) (quoting Burlesci v. Petersen, 68 Cal. App. 4th 1062,

10 Plaintiffs also appear to be alleging that defendants are causing local granges to breach Grange by-laws by collaborating with them while they remain Grange members. To the extent that is what the claim is, plaintiffs have alleged neither the specific by-laws being broken nor that the by-laws are contractual to begin with. Accordingly, that claim fails under Federal Rule of Civil Procedure 8 for vagueness. See Lee v. City of Los Angeles, 250 F.3d 668, 679 (9th Cir. 2001) (a complaint give the defendant fa s claim is and the grounds upon which it rests

1066 (1st Dist. 1998)), as modified

to chattels allows recovery for interferences with possession of personal property not sufficiently important to be classed as conversion Intel Corp. v. Hamidi, 30 Cal. 4th 1342, 1350 (2003).

Plaintiffs allege that defendants convert and trespass upon their property by continuing to occupy Grange buildings and refusing to return tangible Grange property after the 2013 split. (See FAC at 50- [from] access[ing] actions have allegedly on among the California Granges as to the identity of the California State Grange and the California Guild. (Id.) Because plaintiffs allege ownership of and refusal to return the property, and resulting damages, they have stated plausible claims for trespass and conversion under California law.

trespass and conversion claims are not barred under the doctrine of res judicata by the underlying state court action in this case because that action remains pending on appeal. See Eichman v. Fotomat Corp., 759 F.2d 1434, 1439 (9th Cir. 1985) (for purposes of res judicata during the pendency of and until the ; see also Howard v. Am. Online Inc., 208 F.3d 741, 748 (9th Cir. 2000) state court judgment in federal court is based on state Neither does Grange I bar such claims, as

Grange I (see Apr. 20 Order at 3), d refusal to vacate and return Grange property. See W. Radio Servs., 123 F.3d at In order for res judicata to apply there must be . . . an identity of claims . . . . . Accordingly, the court will not aims on res judicata grounds. III. Motion for a More Definite Statement

With respect to the claims the court will not dismiss, defendant moves under Federal Rule of Civil

Procedure 12(e) for a more definite statement of the claims. -4.) Rule 12(e) motion is proper only where the complaint is so

indefinite that the defendant cannot ascertain the nature of the claim[s] Sagan v. Apple Computer, Inc., 874 F. Supp. 1072, 1077 (C.D. Cal. 1994) (citing Famolare, Inc. v. Edison Bros. Stores, Inc., 525 F.Supp. 940, 949 (E.D. Cal.

disfavor and are rarely granted because of the minimal pleading requirements of the Federal Rules. Parties are expected to use discovery, not the pleadings, to learn the specifics of the Id. (citing In re American Int'l Airways, Inc., 66 B.R. 642, 645 (E.D. Pa. 1986)).

provides more than enough information to alert defendants as to the nature of the claims asserted against them. Defendants appear to have no trouble responding to the claims in their motion to dismiss, in their reply, and at oral argument. Accordingly, the court will deny motion for a more definite statement.

IT IS THEREFORE ORDERED that defendants motion to dis omplaint or, in the alternative, for a more definite statement of claims, be, and the same hereby is, GRANTED IN PART and DENIED IN PART as follows:

(1)

and intentional interference with contractual relations claims are DISMISSED; (2)

is DENIED; and (3) the

non-dismissed claims is DENIED. Dated: November 15, 2016