



E-FILED
CNMI SUPERIOR COURT
E-filed: Sep 3 2010 1:57PM
Clerk Review: N/A
Filing ID: 33027728
Case Number: 10-0114-CV
N/A

FOR PUBLICATION

**IN THE SUPERIOR COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

BYOONG SEOB CHOI,)
)
Plaintiff,)
)
vs.)
)
JUNG JA KIM, G. ANTHONY LONG, RAMON)
QUICHOCHO, FRANCES QUICHOCHO, OK)
HWA LEE, EUN MEE JUNG, DONG SOON)
KIM, JUNG EUN JUNG, SIN HO NAM, DAN BI)
CHOI, SOI-IN CORPORATION, DR. KO, LLC,)
KOSTA, LLC, PACIFIC SAIPAN, LLC, TAN)
DINGO, LLC, AND DOES 1-20,)
)
Defendants.)

CIVIL ACTION NO. 10-0114

**CONSOLIDATED OPINION AND
ORDER ON DEFENDANTS'
MOTIONS TO DISMISS**

I. Introduction

This civil action came before the Court for a consolidated hearing on motions to dismiss on August 31, 2010, at 9:00 a.m. in Courtroom 220A. Defendants Jung Ja Kim and Soi-In Corporation were represented by Attorney Robert T. Torres. Defendant G. Anthony Long was represented by Attorney William M. Fitzgerald. Defendants Frances Quichocho, Ramon Quichocho, and Tan Dingo, LLC were represented by Attorney Joey P. San Nicolas. Defendant Frances Quichocho was additionally represented by Attorney Ramon Quichocho. Defendant Sin Ho Nam was represented by Attorney Colin

1 M. Thompson.¹ Plaintiff was represented by Attorney Timothy H. Bellas. After reviewing the briefs
2 and memoranda, and considering the arguments of the parties, the Court issued its oral ruling granting
3 (1) Defendant Long’s motion to withdraw his joinder motion, (2) Defendant Nam’s motion to dismiss
4 without prejudice, (3) The Quichocho Defendants’ motion for a more definite statement, and (4)
5 Defendants Kim and Soi-in Corporation’s motion for a stay. The Court now issues its written opinion
6 and order.

7 **II. Factual and Procedural Background**

8 On May 17, 2010, Plaintiff Byoong Seob Choi (“Choi”) filed a 12 count First Amended
9 Complaint (“FAC”)² against sixteen named defendants, including Defendants Jung Ja Kim and Soi-In
10 Corporation (“Kim”), G. Anthony Long (“Long”), Frances and Ramon Quichocho, and Tan Dingo, LLC
11 (“Quichochos”), and Sin Ho Nam (“Nam”), and against twenty Does. Counts 1 through 6 of the FAC
12 raise various claims against Defendant Long only relating to an attorney-client relationship between
13 Long and Choi. Counts 8 (Mismanagement and/or Dissipation of Marital Assets), 10 (Breach of
14 Implied Covenant of Good Faith and Fair Dealing) and 11 (Fraud) are claims against Defendant Jung Ja
15 Kim only and relate to the marriage and/or breakdown of the marriage between Choi and Kim and assets
16 therefrom. Finally, Counts 7 (Fraudulent Conveyance of Property), 9 (Accounting) and 12 (Punitive
17 Damages) are alleged against all Defendants and relate to purported property conveyances from Kim.

18 On June 15, 2010, Kim filed a motion to dismiss pursuant the prior pending action doctrine
19 (“Kim Motion”) as a result of two actions in the Family Court Division, *Choi v. Kim*, FCD-DI Civ.
20 Action No. 05-0186, and *Choi v. Kim*, FCD-DI Civ. Action No. 08-0254. On June 16, 2010, the
21 Quichochos filed a motion to dismiss pursuant to Rule 12(b)(6) or for a More Definite Statement

22 ¹ No other defendants had entered pleadings by the time of hearing.

23 ² The First Amended Complaint is treated in all respects as the extent of the Plaintiff’s action. *See Guo Qiong He v.*
24 *Commonwealth*, 2003 MP 3 ¶ 11. (“Once filed, an amended complaint supersedes the original. The original complaint “no longer performs any function and is treated thereafter as non-existent.”)

1 pursuant to Com. R. Civ. P. 12(e) (“Quichocho Motion”). On July 19, 2010, Long answered the FAC.
2 On July 26, 2010, Nam filed a motion to dismiss pursuant to Rule 12(b)(6) (“Nam Motion”). Finally, on
3 August 2, 2010, Long filed a “Joinder of Motions to Dismiss” (“Long Joinder”). Choi filed oppositions
4 to all motions on August 13, 2010 (“Opposition”). Only Defendants Kim and the Quichochos filed
5 replies (“Kim Reply” and “Quichocho Reply” respectively) on August 20, 2010.

6 **III. Analysis**

7 The Defendants in this case move to dismiss upon various grounds. Nam moves to dismiss per
8 Com. R. Civ. P. 12(b)(6) based on the fact that “there are no factual allegations asserting any cause of
9 action against him.” (Nam Mot. at 1) The Quichochos move for dismissal or in the alternative for
10 clarification, arguing that the three counts filed against them “are so vague and ambiguous such that
11 [they] are unable to respond to them in an informed manner.” (Quichocho Mot. at 2) Kim argues that
12 pending matters in the Family Court prevent this action from proceeding against her. Long initially
13 moved to join Kim and Nam’s motions, but withdrew this request at the hearing. Plaintiff Choi moved
14 to strike Long’s joinder, and moved to strike portions of Kim’s pleadings based on Com. R. Civ. P.
15 12(f). The Court addresses all these motions as follows.

16 **A. Nam: Com. R. Civ. P. 12(b)(6)**

17 Defendant Nam moves to dismiss pursuant to Com. R. Civ. P. 12(b)(6) for failure to state a claim
18 upon which relief may be granted. At the hearing, Plaintiff Choi conceded the motion. Accordingly, the
19 Court grants Nam’s motion to dismiss without prejudice.

20 **B. Quichochos: Com. R. Civ. P. 12(b)(6) and 12(e)**

21 The Quichocho Defendants move for dismissal or for clarification, arguing that the three counts
22 (7, 9 and 12) filed against them “are so vague and ambiguous such that [they] are unable to respond to
23 them in an informed manner.” (Quichocho Mot. at 2) Additionally, they assert that Counts 9 and 12
24 against them should be dismissed because “[p]laintiff did not even oppose the Defendants’ motion to

1 dismiss” those counts. (Quichocho Reply at 3). Because Defendants believe Plaintiff Choi cannot cure
2 the deficiency in his complaint, the Quichochoes argue a dismissal with prejudice is warranted.

3 In reviewing a motion to dismiss, the Court must construe all well-pleaded allegations in the
4 complaint as true. *See Zhang v. Commonwealth*, 2001 MP 18 ¶ 11. Thus, the Court will consider only
5 the first of the Quichochoes’ two arguments. The fact that Plaintiff did not vigorously argue against
6 dismissal in his Opposition is, for the purposes of this discussion, irrelevant.

7 The Court may dismiss an action for failure to state a claim upon which relief may be granted.
8 *See* Com. R. Civ. P. 12(b)(6). “To survive a motion to dismiss, a complaint must contain sufficient
9 factual matter, accepted as true, to state a claim to relief that is plausible on its face. . . Threadbare
10 recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.”
11 *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009). In the Commonwealth, the plaintiff’s pleading in a
12 civil action must contain “a short and plain statement of the claim showing that the pleader is entitled to
13 relief.” Com. R. Civ. P. 8(a). When determining whether to dismiss a complaint, the Court looks to the
14 complaint to determine whether the allegations constitute an adequate statement under Rule 8(a). *See*
15 *Cepeda v. Hefner*, 3 N.M.I. 121, 127 (1992). The Court must assume that factual allegations in the
16 complaint are true and construe them in the light most favorable to the nonmoving party. *See Zhang,*
17 *supra; Cepeda* at 126. To succeed, a complaint “must contain either direct allegations on every material
18 point necessary to sustain a recovery on any legal theory . . . or contain allegations from which an
19 inference fairly may be drawn . . .” *In re the Adoption of Magofna*, 1 N.M.I. 449, 454 (1990). Finally,
20 “[p]leadings shall be so construed as to do substantial justice. . . the prima facie elements of a claim
21 must each be either directly alleged or implied.” *Indalecio v. Yarofalir*, 2006 MP 18 ¶ 25.

22 The Court finds that the factual allegations against the Quichochoes are sparse, but present. To be
23 sure, the Quichochoes are not specifically mentioned in Counts 7, 9, or 12 of the FAC. However, the
24 Plaintiff “adopts and re-alleges” all previous allegations as to each successive count. FAC, *throughout*.

1 Further, the Court will construe all of the pleadings to do “substantial justice.” *Indalecio*, 2006 MP 18 ¶
2 25. In Count 8 of the FAC, Choi alleges that “Kim has written checks for payment of funds to other
3 persons or corporate entities, such as the LLC of defendant Frances Quichocho, named Tan Dingo LLC,
4 for which there was no legal obligation . . . Kim also wrote a check . . . for licensing fees of poker
5 machines located on Rota. Yet *the Quichocho Defendants* claim that there are no poker machines . . .”
6 (FAC ¶¶ 173-174) (emphasis added). In addition, “Ramon Quichocho and Frances Quichocho are
7 husband and wife. . . Ramon Quichocho is also a lawyer, licensed to practice law in the CNMI and
8 during some of the period relevant to this complaint represented Kim as her attorney.” (FAC ¶¶ 25-26)³

9 Although Count 8 is brought against Kim and not the Quichochos, it is substantively alleged that
10 Kim conveyed marital property to Frances Quichocho and/or Tan Dingo LLC. It is also alleged that
11 Defendant Ramon Quichocho served as an attorney for Kim during this time. Viewing the FAC in the
12 light most favorable to Choi, it may fairly be inferred that Kim’s conduct was a fraudulent conveyance
13 (Count 7) involving *one or more* of the Quichocho Defendants, from which an accounting (Count 9) and
14 punitive damages (Count 12) might flow.

15 Furthermore, in support of his opposition to the motion, Plaintiff Choi submitted a copy of a
16 separate civil complaint filed by Defendant Kim against the Quichochos. Converting the Quichochos’
17 motion to a Rule 56 analysis and considering the additional evidence provided in Exhibit A to Plaintiff’s
18 Opposition, i.e. *Kim v. Quichocho et al.*, Civ. Action No. 09-0046 (D.N.M.I.), the Court finds that there
19 are material facts in dispute and that the legal claims against the Quichochos require further
20 development (*see infra*). Relying on Kim’s allegations against the Quichochos in the separate action,
21 Choi alleges the Quichochos participated in a scheme to defraud him of his share of marital property
22 with Defendant Kim. Based on these facts, there is a material dispute as to Plaintiff’s claims against the
23

24 ³ Choi also offers Exhibit A in his opposition to the Quichochos’ motion.

1 Quichochochos. (FAC at 17-26; Quichocho Mot. at 4-8, Choi Opp'n, Ex. A) Summary judgment is
2 therefore not appropriate.

3 Notwithstanding its denial of the motion to dismiss, the Court does grant the Quichochochos'
4 request per Com. R. Civ. P. 12(e). Although the factual allegations in the FAC as to the Quichochochos are
5 more than threadbare, the Court finds the allegations to be sufficiently "vague and ambiguous," and thus
6 the Quichochochos "cannot reasonably be required to frame a responsive pleading." Com. R. Civ. P. 12(e).
7 Furthermore, the Court is mindful of the professional damage that may accompany an allegation of
8 fraudulent acts. *See, e.g., Semegen v. Weidner*, 780 F.2d 727, 731 (9th Cir. 1985). For both of these
9 reasons, the Court finds that a more definite statement under Rule 12(e) will provide the Quichochochos
10 with sufficient notice and a reasonable opportunity to respond. Accordingly, the Court will order
11 Plaintiff Choi to amend the FAC by providing a more definite statement to the Quichochochos.

12 **C. Kim: The prior pending action doctrine**

13 Although Defendant Kim brings her Motion to Dismiss pursuant to Rule 12(b)(6), it is in
14 substance a motion under the prior pending action doctrine.⁴ The parties do not cite a CNMI rule or case
15 referencing the doctrine, and the Court finds none on point. Instead, Kim provides the Connecticut
16 Supreme Court's rule, which this Court finds useful:

17 The pendency of a prior suit of the same character, between the same parties, brought to
18 obtain the same end or object is, at common law, good cause for abatement. It is so,
19 because there cannot be any reason or necessity for bringing the second, and, therefore, it
20 must be oppressive and vexatious. This is a rule of justice and equity, generally
21 applicable, and always, where the two suits are virtually alike, and in the same
22 jurisdiction.

22 ⁴ In the initial motion, Kim cites Com. R. Civ. P. 12(b)(6) as the basis for requesting dismissal. *See* Kim Mot. at 1.
23 However, the Court finds that the motion and memorandum of law dated June 11, 2010, is in substance a motion under the
24 prior pending case doctrine. "It is the substance of pleadings which control, not the terminology employed." *Indalecio*, 2006
MP 18 ¶ 23

1 *Solomon v. Aberman*, 196 Conn. 359, 382, 493 A.2d 193 (Conn. 1985) (where the Court applied the
2 doctrine in its analysis but ultimately found that the two cases at issue contained distinct claims).
3 Connecticut’s prior pending action doctrine is similar in concept to the doctrine of *res judicata*, which is
4 well-established in this Commonwealth (*see, e.g., In Sik Chang v. Estate of Norita*, 2006 MP 2).
5 Because of this close relationship, the Court will turn briefly to the doctrine of *res judicata*.

6 . . . [O]nce a valid judgment has been entered, the parties may not re-litigate those claims
7 actually decided or which should have been brought. . . This doctrine embodies the
8 important policy that litigation must come to an end, and when that end occurs, the
9 parties are forever bound by that outcome.

9 *In Sik Chang*, 2006 MP 2 ¶ 16. For the purposes of a *res judicata* analysis, the CNMI has adopted the
10 transactional test for determining whether claims or issues are closely related. *See Taman v. MPLC*, 4
11 N.M.I. 287 at 291; *see also Hall v. Hodgkins*, 305 Fed. Appx. 224, 228 (5th Cir. 2008). A subsequent
12 plaintiff’s claim “will be barred where it is included in all rights of the plaintiff to remedies against the
13 defendant with respect to all or any part of the transaction, or series of connected transactions, out of
14 which the action arose.” *Taman*, 4 N.M.I. at 291. In other words, if the substance of the previous claim
15 or issue was the same as the subsequent claim or issue, then the second action will be barred because
16 such claims are “required to be litigated together” in the first action. *Id.*, quoting *Brye v. Brakebush*, 32
17 F.3d 1179, 1183 (7th Cir. 1994). In considering whether a factual grouping constitutes one transaction
18 for the purposes of *res judicata*, this Court can consider “whether the facts are related in time, space,
19 origin or motivation, whether they form a convenient trial unit, and whether their treatment as a unit
20 conforms to the parties’ expectations or business understanding or usage.” *Hall*, 305 Fed. Appx. at 228-
21 9.

22 It is axiomatic that if *res judicata* bars *re-litigation* of claims or issues, then *simultaneous*
23 litigation of parallel claims or issues should similarly be limited. This is because multiple active cases
24 tax judicial resources in the same way as *re-litigation*. Indeed, courts must always give regard to the

1 “conservation of judicial resources and comprehensive disposition of litigation.” *Kerotest Mfg. Co. v.*
2 *C-O-Two Fire Equipment Co.*, 342 U.S. 180, 183 (1952). In addition, the existence of multiple active
3 cases presents the problem of contemporaneous but disparate results. If, for example, one court finds in
4 favor of a claimant and a second court finds against that claimant on the very same claim, the result is
5 uncertainty, followed by possible dual appeals, leading to further drain on the judiciary, and so on.
6 Limiting litigants to one active action per jurisdiction for claims that are factually related is the sensible
7 alternative that allows the Court to conserve resources and safeguard against disparate results. For these
8 reasons the Court finds that Kim’s motion based on the prior pending action doctrine is appropriately
9 considered.

10 In determining whether to apply the doctrine in this case, the Court will look at four elements.
11 First, there must be a prior pending case in the same jurisdiction. Second, the prior case and instant case
12 must be between the same parties. Third, the cases must be of the same character and brought to obtain
13 essentially the same end or object. Fourth, justice and equity must require application of the doctrine.
14 *See Solomon*, 196 Conn. at 382.

15 The first and second elements are not in dispute. There is at least one active pending case, *Choi*
16 *v. Kim*, FCD-DI Civ. Action No. 05-0186, and/or *Choi v. Kim*, FCD-DI Civ. Action No. 08-0254.⁵
17 (Kim Mot., Ex. A; FAC, Ex. A) Choi and Kim are the plaintiff and defendant, respectively. The Court
18 must next examine the claims raised in the two cases to determine whether they are of the same
19 character and brought for the same object.

20 Initially, Choi objects to the use of items outside the pleadings in undertaking this analysis.
21 (Choi Opp’n at 2) To be sure, “a motion to dismiss confines analysis to the allegations and implications

22
23 ⁵ Although the parties were unclear on the exact status of each case, it was agreed at the hearing that there was an order
24 granting a divorce, an order vacating the divorce, and an order reinstating the divorce in FCD-DI Civ. Action No. 05-0186.
The reinstatement of the divorce status mooted the 2008 divorce action. It was also agreed that the question of determining
marital property has not yet been reached by the Family Court in either the 2005 or 2008 case, and a hearing related to that
issue will be scheduled for October 2010.

1 contained on the face of the complaint.” *In re Estate of Roberto*, 2002 MP 23 ¶ 12. However, *Roberto*
2 addressed a Rule 12(b)(6) motion and not a motion to dismiss based on the prior pending action
3 doctrine. While the former is provided for under the Rules of Civil Procedure, the latter is based in
4 equity. The Court agrees with Kim that the rule concerns not the validity of a claim on its face but
5 rather “duplication and . . . judicial economy.” (Kim Reply at 3) The Court must therefore weigh all
6 equitable principles, including the utility of conducting separate proceedings in the same jurisdiction, in
7 making a determination. Moreover, even in a Rule 12(b)(6) motion, the Court may “take judicial notice
8 of matters of public record.” *Zhang*, 2001 MP 18 ¶ 11. It is therefore appropriate for this Court to take
9 notice of outside pleadings and determine as a matter of equity whether a pending case should bar or at
10 least stay this case from proceeding.

11 Examining the substance of the two actions together, (taken from FCD-DI Civ. Action No. 05-
12 08-0254 as provided in Kim’s Exhibits A-J, Choi’s Exhibits A-D with his Opposition, and Exhibits A-J
13 to the FAC) the Court finds that both cases concern the marital relationship between Choi and Kim and
14 the property of Choi, Kim, or both. (Kim’s Ex. A at 1; Choi’s Ex. A, *throughout*; FAC at 2, 7-10) Choi
15 and Kim were married in either 1988 or 1989. (Kim’s Ex. A at 1; FAC at 2 ¶ 1) They subsequently
16 filed for divorce. (Kim’s Ex. A at 1; FAC at 2 ¶ 2) There was some confusion about when and whether
17 the court vacated the divorce. (Kim’s Ex. C at 1-2; Choi’s Ex. A at 3; FAC at 2 ¶¶ 4-7) The couple
18 owned at least some marital property. (Ex. A at 1; FAC at 2 ¶ 4) Choi and Kim were involved in
19 property transfers to Kim and/or others. (Kim’s Ex. D, E, F, and G; FAC at 8-9, 17-26) Choi and Kim
20 dispute these transfers. (Kim’s Ex. J, *throughout*; Choi’s Ex. A, *throughout*; FAC at 7-10, 17-26) Choi
21 seeks an order from the Family Court and this Court to, among other things, determine the ownership
22 and rights to property. (Kim’s Ex. A at 2; Choi’s Ex. A, *throughout*; FAC at 25-26) In addition, Choi
23 now seeks to recover for fraudulent conveyances. (FAC at 17-26)

1 The Family Court has jurisdiction to “handle family matters, including but not limited to,
2 adoption proceedings, child support, *divorce*, paternity, domestic violence, child abuse cases,
3 delinquency cases, and temporary restraining orders . . .” 1 CMC § 3205 (emphasis added); *see also*
4 *Reyes v. Reyes*, 2004 MP 1, *throughout* (The Family Court may determine issues of divorce, marital
5 property, marital waste, and damages). The purpose of the CNMI’s Marital Property Act (“MPA,” 8
6 CMC § 1811 *et seq.*) is to “affirm and clarify the property rights of married persons in the
7 Commonwealth,” and fully contemplates the “dissolution of marriage” within its ambit. 8 CMC § 1812.
8 The MPA requires that “[e]ach spouse shall act in good faith with respect to the other spouse in matters
9 involving marital property or other property . . .” 8 CMC § 1814. Both CNMI law and persuasive legal
10 authority recognize that allegations of fraudulent transfer may be raised in a divorce action. In a dispute
11 as to real property:

12 The spouse with the right to management and control of real property must obtain the
13 written consent of the other spouse in order to sell, convey or lease for more than one
14 year any real property in which the other spouse has any legal or equitable interest.
Absent the required consent, the transaction is voidable at the option of the
nonconsenting spouse.

15 8 CMC § 1821(d). Further, “[a] judgment in a dissolution of marriage action, may therefore, contain the
16 judicial seeds of the divestment of a claimed interest in realty belonging to those other than the parties to
17 the action.” *Derderian v. Derderian*, 490 A.2d 1008, 1012 (Conn. 1985). Finally, “[w]hen one party to
18 a divorce proceeding alleges that there has been a fraudulent conveyance to defeat that party’s rights,
19 joinder of additional parties involved in the allegedly fraudulent conveyance is proper.” *Degarmo v.*
20 *Degarmo*, 499 S.E.2d 317, 318 (Ga. 1998). It is thus permissible and preferable for disputes of real and
21 other property to be litigated in the Family Court, and not by parallel civil action.

22 The Court finds that enabling legislation and the MPA confer adequate jurisdiction and authority
23 upon the Family Court to resolve the instant dispute between Choi and Kim, including any questions of
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1 fraudulent conveyances.⁶ Essentially, the counts alleged against Kim in the instant case are in
2 furtherance of the same end result that could be obtained in the divorce action: determination of property
3 ownership and recovery for fraud. Put another way, Choi asserts the same rights and seeks the same
4 relief. *See The Haytian Republic*, 154 U.S. 118, 124 (1894). Choi’s argument that the current action is
5 necessary because the divorce was completed in June 2005 is misplaced. Because there has been no
6 determination as to marital property, all real and personal property of Choi and Kim retains the character
7 it had in 2005, and the Family Court may make its findings accordingly.

8 Finally, in this case, equity requires that Choi not be permitted to pursue simultaneous claims
9 before two different judges of the Commonwealth Superior Court. Such a course improperly taxes
10 judicial resources and requires Kim to litigate in two forums when one is sufficient. The Court is
11 satisfied that the prior pending action doctrine is appropriately applied to this case and will stay the FAC
12 as to Defendant Kim. Because Defendant Soi-In is a corporation owned either jointly or separately by
13 Choi or Kim and is a subject of the Family Court proceedings,⁷ the Court will also stay the FAC as to
14 Soi-In.

15 **D. Choi’s motions to strike**

16 Choi’s motion to strike Long’s “Joinder” is denied as moot. Further, the Court will deny Choi’s
17 motion to strike Kim’s pleadings per Com. R. Civ. P. 12(f). The Court finds that Plaintiff has filed a
18 case alleging, among other things, outrageous conduct, infliction of emotional distress, attorney
19 malpractice, fraud, and mismanagement. Plaintiff’s FAC is based in part on the alleged “nature of the
20 case” that “law enforcement personnel of the CNMI Government raided a space leased by Choi for
21 alleged illegal gambling activities” (FAC at 2 ¶ 9), that “Long commenced an adulterous affair with Kim

22
23 ⁶ Because no other parties have moved for dismissal under the prior pending action doctrine, the Court does not reach Kim’s
24 argument that other defendants may fall under the doctrine as well. (“ . . . with the exception of the charges Choi lodges
against Mr. Long, the remaining persons named as Defendants in this lawsuit could have and should have been brought into
the prior pending action.” Kim Reply at 6.)

⁷ FAC at 5 ¶ 35.

1 (FAC at 3 ¶ 14), and that the Defendants “willfully, intentionally, and maliciously” defrauded the
2 Plaintiff. (FAC at 25, ¶ 197) These facts are all introduced by the Plaintiff. The Court finds that the
3 nature of the case plead by the Plaintiff is inherently sensational and controversial. Defendant Kim has
4 responded not in the form of an affirmative pleading, but rather through argument in a motion to dismiss
5 or stay. The Court does not consider the arguments of either party to be evidence at trial, and will
6 entertain the arguments of both Choi and Kim in ruling on the instant motions.

7 **IV. Conclusion**

8 For the aforementioned reasons, the Court rules as follows:

- 9 1. As to Defendant Nam: The Motion to Dismiss per Com. R. Civ. P. 12(b)(6) is GRANTED
10 without prejudice. Each party shall bear his own costs and fees.
- 11 2. As to Defendants Frances and Ramon Quichocho and Tan Dingo, LLC: The motion to dismiss
12 per Com. R. Civ. P 12(b)(6) is DENIED. The motion for a more definite statement per Com. R.
13 Civ. P. 12(e) is GRANTED. By agreement of the parties at the hearing, the plaintiff shall amend
14 the FAC to provide a more definite statement to the Quichochos not later than October 15, 2010.
- 15 3. As to Defendants Kim and Soi-In Corporation: The motion to dismiss under the prior pending
16 action doctrine is DENIED. The motion to stay is GRANTED.
- 17 4. As to Plaintiff Choi: The motion to strike Defendant Long’s “Joinder” is DENIED as moot. The
18 motion to strike Defendant Kim’s pleadings is DENIED.

19 IT IS SO ORDERED this 3rd day of September, 2010.

20
21 /s/
RAMONA V. MANGLOÑA, Associate Judge