

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND
BUSINESS COURT

NICHOLS FREUND BUILDING, LLC,
d/b/a FREUND & ASSOCIATES,
a Michigan limited liability company,

Plaintiff,

Case No. 2024-205826-CB
Hon. Victoria A. Valentine

v

AMRON ASSOCIATES, INC,
a Michigan corporation, and
RONALD VAUGHN, an individual,

Defendants.

/

**OPINION AND ORDER REGARDING DEFENDANT RONALD VAUGHN'S MOTION
FOR SUMMARY DISPOSITION UNDER MCR 2.116(C)(8) AND MCR 2.115(A)**

At a session of said Court, held in the
County of Oakland, State of Michigan
September 4, 2024

HONORABLE VICTORIA A. VALENTINE

This matter is before the Court on Defendant Ronald Vaughn's Motion for Summary Disposition under MCR 2.116(C)(8) and MCR 2.115(A). This Court has reviewed the pleadings filed by the parties and the motion, response, and reply brief. Oral argument was held on the above-entitled motion on September 4, 2024.

OPINION

I.

Overview

This case arises out of a dispute between Nicholas Freund Building, LLC (“Freund”), a construction manager for the build-out and renovation of a commercial property located in Troy, Michigan, and Amron Associates, Inc. (“Amron”), a contractor hired to provide commercial painting services.¹ At the time of the build-out project, Ronald Vaughn was the owner, Chief Executive Officer, and President of Amron.²

As the construction manager for the project, Freund assisted with the selection of contractors and suppliers to provide labor and materials.³ In December 2020, Amron, by and through Vaughn, submitted a proposal to Freund for the painting work involved in the build-out, and Freund ultimately engaged Amron.⁴

Amron began work in December 2020, but Freund alleges that the work performed was substandard.⁵ Specifically, Freund alleges that Amron failed to properly prepare the ceiling surface and failed to use the proper paint for a metal ceiling.⁶ As a result, Freund alleges that Amron’s substandard work resulted in “significant and pervasive defects, including the discoloring, saponification, and delamination of the paint.”⁷

Amron allegedly stopped work on the project in July 2021 even though the work was “defective and incomplete.”⁸ Freund served Amron and Vaughn with a “Notice of Noncompliance” in August 2021 which outlined Amron’s alleged failure to perform the painting work, and Amron was subsequently terminated from the project.⁹

¹ First Amended Complaint ¶¶ 4, 6.

² *Id.* ¶ 3.

³ *Id.* ¶¶ 6-7.

⁴ *Id.* ¶¶ 9-10.

⁵ *Id.* ¶¶ 11-12.

⁶ *Id.* ¶ 13.

⁷ *Id.* ¶ 14.

⁸ *Id.* ¶ 15.

⁹ *Id.* ¶¶ 16-17.

Freund initiated this lawsuit in February 2024 by filing a complaint that named only Amron as a defendant and included claims for breach of contract (Count I), breach of warranty (Count II), negligence (Count III), and unjust enrichment (Count IV). Later, Freund filed an amended complaint in April 2024 which added Ronald Vaughn as a defendant but included the same four causes of action. In its First Amended Complaint, Freund alleged that “Amron is the alter ego of Vaughn,” and that Amron is a “mere instrumentality of Vaughn.”¹⁰ Vaughn filed the instant motion for summary disposition in lieu of filing an answer.

II.

Standards of Review

Vaughn moves for summary disposition pursuant to MCR 2.116(C)(8) or, alternatively, for a more definite statement pursuant to MCR 2.115(A).

A. MCR 2.116(C)(8)

A motion for summary disposition pursuant to MCR 2.116(C)(8) tests the legal sufficiency of the complaint, not whether the complaint can be factually supported. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159-160; 934 NW2d 665 (2019); *Pawlak v Redox Corp*, 182 Mich App 758, 763; 453 NW2d 304 (1990). A motion for summary disposition based on the failure to state a claim upon which relief may be granted is to be decided on the pleadings alone. *Bailey v Schaaf*, 494 Mich 595, 603; 835 NW2d 413 (2013); *Parkhurst Homes, Inc v McLaughlin*, 187 Mich App 357, 360; 466 NW2d 404 (1991).

“All well-pleaded factual allegations are accepted as a true and construed in a light most favorable to the nonmovant.” *Maiden v Rozwood*, 461 Mich 109, 119; 597 NW2d 817 (1999); *Wade v Dep’t of Corrections*, 439 Mich 158, 162; 483 NW2d 26 (1992). Summary disposition is

¹⁰ *Id.* ¶ 25.

proper when the claim is so clearly unenforceable as a matter of law that no factual development can justify a right to recovery. *Parkhurst Homes*, 187 Mich App at 360; *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998).

B. MCR 2.115(A)

A complaint must contain “[a] statement of the facts, without repetition, on which the pleader relies in stating the cause of action, with the specific allegations necessary reasonably to inform the adverse party of the nature of the claims the adverse party is called on to defend.” MCR 2.111(B)(1). “Each allegation of a pleading must be clear, concise, and direct.” MCR 2.111(A)(1). A party may move for a more definite statement pursuant to MCR 2.115(A) when the complaint is “so vague and ambiguous that it does not comply with the court rules.” *Woods v SLB Prop Mgmt, LLC*, 277 Mich App 622, 627; 750 NW2d 228 (2008). A motion for a more definite statement must “point out the defects complained of and the details desired.” MCR 2.115(A).

III.

Analysis

A. Motion for Summary Disposition

In his motion for summary disposition, Vaughn argues that he should be dismissed from the suit because Freund has failed to sufficiently support its request to pierce the corporate veil between Vaughn and Amron.

i. Standard for Piercing the Corporate Veil

In general, “Michigan law respects the corporate form, and our courts will usually recognize and enforce separate corporate entities.” *Gallagher v Persha*, 315 Mich App 647, 653; 891 NW2d 505 (2016). Indeed, “the law treats a corporation as an entirely separate entity from its stockholders, even where one person owns all the corporation’s stock.” *Lakeview Commons v*

Empower Yourself, 290 Mich App 503, 509; 802 NW2d 712 (2010) (citation omitted). Courts may ignore this legal fiction, however, when it is used to “subvert justice.” *Id.* Piercing the corporate veil is appropriate where the plaintiff can establish the following elements: “(1) the corporate entity is a mere instrumentality of another individual or entity, (2) the corporate entity was used to commit a wrong or fraud, and (3) there was an unjust injury or loss to the plaintiff.” *Id.* at 510.

Whether to pierce the corporate veil is contingent upon “[t]he entire spectrum of relevant fact[s]” that form the background for such an inquiry, and “the facts are to be assessed in light of the corporation’s economic justification to determine if the corporate form has been abused.”

Klager v Robert Meyer Co, 415 Mich 402, 411-412; 329 NW2d 721 (1982). Factors used by courts to determine the propriety of piercing the corporate veil include: (1) whether the corporation is undercapitalized, (2) whether separate books are kept, (3) whether there are separate finances for the corporation, (4) whether the corporation is used for fraud or illegality, (5) whether corporate formalities have been followed, and (6) whether the corporation is a sham. *Glenn v TPI Petroleum, Inc*, 305 Mich App 698, 716; 854 NW2d 509 (2014).

ii. Sufficiency of the Allegations in the First Amended Complaint

In support of Freund’s request to pierce the corporate veil, it includes the following allegations in the First Amended Complaint:

18. Vaughn is the sole officer of Amron and, upon information and belief, is the President, Vice President, Secretary and Treasurer of Amron.

19. Upon information and belief, Amron is a mere instrumentality of Vaughn.

20. Upon information and belief, Amron, at Vaughn’s direction and control, is undercapitalized and was undercapitalized at all relevant times.

21. Upon information and belief, Amron did not and does not honor corporate formalities.

22. Upon information and belief, Amron was used to commit a wrong or fraud, including but not limited to, representing to Freud & Associates that Amron could and would perform the painting job as agreed.

23. Upon information and belief, Amron and Vaughn did not and do not maintain sufficient separation between personal and corporate finances.

24. Vaughn used Amron to obtain money for job projects that Vaughn had no intention of completing as contracted.

25. Upon information and belief, Amron is an alter ego of Vaughn because Vaughn exercises significant control over Amron effectively making Vaughn and Amron one entity and making Amron a mere instrumentality of Vaughn.

26. Plaintiff Freund & Associates suffered unjust injury and/or loss as a result of the conduct by Amron and Vaughn.

Under Michigan's liberal notice pleading rules, these allegations are sufficient to withstand a motion for summary disposition under MCR 2.116(C)(8). Michigan is a notice-pleading jurisdiction in which "the primary function of a pleading in Michigan is to give notice of the nature of the claim or defense sufficient to permit the opposite party to take a responsive position." *Stanke v State Farm Mut Auto Ins Co*, 200 Mich App 307, 317 (1993). MCR 2.111(B)(1) requires that a complaint contain "the specific allegations necessary reasonably to inform the adverse party of the nature of the claims the adverse party is called on to defend." Although fraud must be pled with particularity pursuant to MCR 2.112(B), Freund has not included a cause of action for fraud. Consequently, the general rules for notice pleading apply.

Vaughn argues that the allegations in the First Amended Complaint fail to allege sufficient facts to pierce the corporate veil and cites the case of *PSP Stores, LLC v Ford*, unpublished per curiam opinion of the Court of Appeals, issued Aug. 30, 2018 (Docket No. 338241). In *PSP Stores, LLC*, the Court of Appeals affirmed the trial court's holding that the plaintiff did not allege facts sufficient to support their request to pierce the corporate veil when the individual was alleged to

be the sole owner of the company and also sent two checks on the company's behalf. *Id.*, p 4. The Court of Appeals reasoned that these facts alone were insufficient to show that the company was a mere instrumentality of the individual. *Id.*

Here, however, the First Amended Complaint contains more robust factual allegations. Specifically, Freund has alleged that Amron was undercapitalized, that Amron did not honor corporate formalities, that Amron and Vaughn did not maintain sufficient separation between personal and corporate finances, and that Vaughn used Amron to obtain money for projects that he had no intention of completing. If true, these allegations would support Freund's request to pierce the corporate veil. Under MCR 2.116(C)(8), this Court must evaluate the "legal sufficiency of the complaint, not whether the complaint can be factually supported." *El-Khalil*, 504 Mich at 159-160. Here, Freund's request is not so clearly unenforceable as a matter of law that no factual development can justify a right to recovery. *Parkhurst Homes*, 187 Mich App at 360. Accordingly, summary disposition in favor of Vaughn is not warranted.

B. Motion for a More Definite Statement

Alternatively, Vaughn moves for a more definite statement pursuant to MCR 2.115(A). For the reasons noted above, the Court is satisfied that the allegations in the First Amended Complaint are sufficient to meet the threshold standard of pleading in Michigan. A complaint is intended merely to give notice to the defendant of the nature of the claims brought against it. *Simonson v Michigan Life Ins Co*, 37 Mich App 79, 83; 194 NW2d 446 (1971). "The exploratory processes of discovery, pretrial conference, and summary judgment, combined with liberal amendments to pleadings, are designed to carry the burden of framing the particular issues to be tried." *Id.* Here, Freund's allegations set forth the types of activities that it alleges Vaughn and Amron engaged in that rendered Amron a "mere instrumentality" of Vaughn. Because Freund has not included a cause

of action for fraud, additional specificity is not required under MCR 2.112(B)(1). Based on the authorities identified above, the Court is satisfied that the allegations in the First Amended Complaint are sufficient. Accordingly, Vaughn's motion for a more definite statement is denied.

ORDER

Based upon the foregoing Opinion:

IT IS HEREBY ORDERED that Defendant Ronald Vaughn's Motion for Summary Disposition under MCR 2.116(C)(8) is DENIED;

IT IS FURTHER ORDERED that Defendant Ronald Vaughn's Motion for a More Definite Statement under MCR 2.115(A) is DENIED.

This Order does NOT resolve the last pending matter and does NOT close the case.



HON. VICTORIA A. VALENTINE
CIRCUIT COURT JUDGE

Dated: 9/4/24