

What Does California's LLC Alter Ego Statute Have To Do With A Delaware Corporation?

Article By:

Keith Paul Bishop

Mr. Clapper is a California resident and the President, Chairman, and controlling shareholder of ScanX, a Delaware corporation with its principal place of business in California. Mr. Carlson and Carlson Produce, LLC, an Illinois limited liability company, sued ScanX and Mr. Clapper in federal court alleging diversity jurisdiction. Among other things, the plaintiffs sought to hold Mr. Clapper liable under a theory of alter ego. *Carlson v. Clapper*, Case No. 18-cv-07195-VKD (March 6, 2019).

In granting the defendants' motion to dismiss, the Magistrate Judge Virginia K. Demarchi wrote:

"Under California law, a member of a limited liability company—like a corporate shareholder—is not personally liable for the debts, legal liability, or obligations of the company unless liability attaches under an alter ego theory. Cal. Corp. Code § 17703.04. Defendants argue that plaintiffs have failed to plead facts sufficient to support an alter ego theory of liability for Mr. Clapper for any claim for relief."

Section 17703.04 is part of California's Revised Uniform Limited Liability Company Act. Why it should apply to a Delaware corporation is obscure at best.

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