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Wells Fargo Bank, National Association v. Leafs Hockey Club, Inc.

United States District Court, N.D. Illinois, Eastern Division - September 30, 2013 - Not Reported in F.Supp.2d - 2013 WL 5433789

Court declines to dismiss suit brought by trustee against guarantor in bond default, finding diversity of citizenship and no cause to stay and dismiss under the *Colorado River* abstention doctrine.

Wells Fargo alleged that it was the successor trustee (the "Trustee") to the Amalgamated Bank of Chicago (the "Prior Trustee") under the Trust Indenture between the Illinois Finance Authority and the Prior Trustee dated as of February 1, 2007 (the "Trust Indenture").

Wells Fargo alleged that the Illinois Finance Authority raised $20 million through issuing and selling a series of revenue bonds. The Illinois Finance Authority issued the bonds under the Trust Indenture and loaned the proceeds to LHC, LLC ("LHC"), an Illinois non-profit limited liability company, for the construction and operation of a hockey arena located in West Dundee, Illinois.

Pursuant to the February 1, 2007 Loan Agreement ("Loan Agreement") and Guaranty Agreement ("Guaranty Agreement"), LHC was the borrower and Defendant Leafs Hockey was the guarantor. Wells Fargo contended that LHC had failed to make the required payments, and thus is in default. Also, Wells Fargo alleged that Leafs Hockey, as guarantor, had failed to pay its obligations under the February 1, 2007 Guaranty Agreement. Accordingly, Wells Fargo brought breach of contract and contractual indemnity claim against Leafs Hockey.

Leafs Hockey moved to dismiss the lawsuit pursuant to Rule 12(b)(1) arguing that diversity of citizenship did not exist, and thus, the Court lacks subject matter jurisdiction. In particular, Leafs Hockey, a citizen of Illinois for diversity jurisdiction purposes, argued that Wells Fargo was only a nominal party and the true party-in-interest is either the Illinois Finance Authority, a citizen of Illinois, or the unidentified bond holders, who may or may not be citizens of Illinois. The court concluded that Leafs Hockey's argument was unavailing because, as Successor Trustee, Wells Fargo, a citizen of South Dakota, can enforce the Loan Agreement under the parties' February 1, 2007 agreements.

The court also held that Wells Fargo's state court foreclosure action against LHC and the present breach of contract action were not parallel under the circumstances. Because the federal and state court actions were not parallel, the Colorado River abstention doctrine does not apply.

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