

COURT OF APPEAL
FIRST CIRCUIT
STATE OF LOUISIANA

DOCKET NUMBER 2025-CA-0481

JONATHAN SCULLY, ET AL
PLAINTIFFS-APPELLANTS

v.


ROSS LARIS, ET AL
DEFENDANTS-APPELLEES

ON APPEAL FROM THE
17TH JUDICIAL DISTRICT COURT
CIVIAL ACTION NUMBER 150,707; DIVISION "A"
HONORABLE REBECCA N. ROBICHAUX

ORIGINAL APPELLANT BRIEF

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I. STATEMENT OF JURISDICTION

This is an appeal of the Trial Court's judgment signed on January 15, 2025, granting Appellees' Preliminary Injunction and Order to Stay Litigation Pending Arbitration Except to Enforce Preliminary Injunction¹ and the Judgment signed on February 28, 2025² denying Appellants' requests for temporary restraining order, which were both issued following the January 15, 2025 trial on cross-preliminary injunctions. A Petition for Devolutive Appeal was timely filed on January 27, 2025, and an order granting the appeal of the Trial Court's judgments was signed on January 29, 2025.³

Appeal is properly taken pursuant to La. C.C.P. art. 3612, La. C.C.P. Art. 2081, et seq., and La. Const. Art. V, §10(A).

¹ R. Vol. 6, p.1277-79.

² R. Vol. 6, p.1308.

³ R. Vol. 6, p.1305.

II. STATEMENT OF THE CASE

Our Civil Code recognizes that some contract terms are so egregious that they are null and cannot be enforced as a matter of public policy. The predicate contract in this case is such a document. It violates La. Civil Code Article 1770 because the sole obligation of Appellee was to loan \$45,000,000.00, but only at Appellee's whim.⁴ Appellee failed to make the loan yet claims the benefit of that loan commitment in acquiring a majority and controlling interest in 10 companies.

Therefore, the predicate document provides no ownership in the companies to Appellees, and Appellees have no right to control the companies. The Trial Court improperly refused to evaluate whether the predicate contract was valid and created ownership interest for Appellee, and further refused to evaluate the consequences of Appellees' failure to loan the \$45,000,000.00.⁵ Instead, the Trial Court simply assumed Appellees owned a majority interest in the companies and could therefore exclude Appellant from management of the companies, and that arbitration was required.

This case involves disputes between Appellant/Plaintiff Jonathan Scully and Appellees/Defendants, Ross Laris ("Laris") and his proxy, Millenium Supply Boats, LLC ("MSB"), over ownership and control of 10 businesses (collectively referred to as "Pelican").⁶ Scully founded and operated Pelican for several years prior to the events at issue.⁷ Scully, individually and for Pelican, initiated this litigation seeking declaratory judgment, damages, and injunctive relief against Laris and MSB. The

⁴ "A suspensive condition that depends solely on the whim of the obligor makes the obligation null." La. C.C. art. 1770.

⁵ R. Vol. 6, p.1355.

⁶ R. Vol. 1, p.2. Scully and Pelican Companies of America, LLC, Pelican Rentals and Services, LLC, Pelican Contractors of USA, LLC, Pelican Industrial of USA, LLC, Pelican Equipment Company, LLC, Pelican Marine and Oil, LLC, Pelican Transportation and Logistics, LLC, Jonathan Scully Companies, LLC, Pelican Real Estate of America, LLC, and Lake End Rentals, LLC (the limited liability companies are collectively referred to as "Pelican") are Plaintiffs/Appellants in this matter.

⁷ R. Vol. 6, pp.1375-76.

principal issue is that Laris/MSB do not have any ownership/membership interest in Pelican pursuant to a September 2021 agreement ("Contract").⁸

The Contract that purports to give Laris/MSB 50.1% membership interests in Pelican is based on the committed capital contribution of a loan to Pelican for \$45,000,000.00.⁹ However, the Contract (prepared by Laris/MSB¹⁰) then states the loan is to be made solely at the whim¹¹ ("complete discretion") of MSB/Laris. As such, the obligation is null pursuant to La. Civil Code Art. 1770 and MSB/Laris have no ownership in Pelican under the Contract.

The law does not allow MSB/Laris, on one hand, to promise a \$45,000,000.00 loan as a capital contribution to receive controlling interest in Pelican, and on the other hand only provide the funds at their whim. The nullity and public order provided under Article 1770 is designed to protect Scully and Pelican from MSB'S/Laris' con. As a result of the nullity, the parties are to be restored to the prior position, where Scully was 100% owner of Pelican. *See* La. C.C. Art. 2033.

Further, MSB/Laris have, in fact, failed to make the loan to Pelican¹², yet claim a 50.1% interest in Pelican and have used that purported majority interest to exclude Scully from the Pelican businesses he founded. As additional legal bases, because of the failure to make the capital contribution, pursuant to La. R.S. 12:1322(B) MSB/Laris have forfeited any membership interest in Pelican they may have obtained under the Contract, resulting in Scully being the 100% owner of Pelican.

⁸ R. Vol. 1, pp.33-38.

⁹ The Contract provided MSB would receive 50.1% interest in Pelican for the capital contribution to Pelican of "a loan to Pelican, in the form of cash and/or a line(s) of credit up to FORTY-FIVE MILLION (\$45,000,000.00) DOLLARS." R. Vol. 1, p.33-34.

¹⁰ R. Vol. 6, p.1346.

¹¹ "Despite any language above, neither Millennium, nor Ross Laris (nor any designee of either) shall be obligated to advance any funds or authorize any draws on the line of credit in favor of Pelican. Such advances (loans) or draws on the line of credit shall be at the complete discretion of Ross Laris or Millennium." R. Vol. 1, p.34

¹² R. Vol. 6, p.1366.

The second key issue on this appeal is there is no basis to require arbitration of the disputes. The Contract does not have an arbitration provision. Later signed operating agreements for the Pelican businesses contain limited arbitration provisions regarding disputes between the members.¹³ However, those arbitration provisions are not valid and, further, have no application to the claims involved in this matter.

Laris/MSB and Pelican (under Laris's/MSB's direction) have initiated an arbitration action against Scully with the American Arbitration Association related to the same disputes at issue in this litigation.¹⁴

On cross-preliminary injunctions, the Trial Court found MSB to be the majority and controlling member of Pelican under the Contract¹⁵, and enjoined Scully from activities related to Pelican.¹⁶ The Trial Court also determined the arbitration provisions of the operating agreements were controlling and that all claims were subject to arbitration.¹⁷ The Trial Court stayed the litigation and referred all claims to arbitration. The effect of the Trial Court's ruling is that MSB/Laris are solely in control of Pelican, allowing Laris to continue to deplete Pelican for the sole benefit of Laris and his entities, and the arbitration is continuing to proceed.

¹³ R. Vol. 1, pp.44-69. The 10 Pelican operating agreements are identical, except for the names of the companies.

¹⁴ See R. Vol. 5, pp.1188-89. (American Arbitration Association Case No. 01-24-0009-0199 *Ross Laris, Millemium Supply Boats, LLC, LAC v. Jonathan Scully*).

¹⁵ R. Vol. 6, p.1413.

¹⁶ R. Vol. 6, p.1277-1279.

¹⁷ R. Vol. 6, p.1414.

III. ASSIGNMENTS OF ERROR

1. The Trial Court erred in granting Appellees' preliminary injunction, which excluded Scully from management of Pelican, and referred Plaintiffs' claims to arbitration.
2. The Trial Court erred in denying Plaintiffs'/Appellants' requests for preliminary injunction, which would have enjoined MSB/Laris from managing Pelican and enjoined the arbitration initiated against Scully.
3. The Trial Court erred in excluding and restricting testimony on relevant evidence as to the parties intentions and formation of the Contract.

IV. ISSUES PRESENTED FOR REVIEW

1. Whether MSB obtained a 50.1% membership interest in Pelican pursuant to the Contract?
2. Whether MSB forfeited any membership interest it may have acquired in Pelican because it has failed to meet its capital contribution (loan) to Pelican?
3. Whether Scully is the controlling member of Pelican?
4. Whether Appellants' claims or Appellees' claims are subject to arbitration?
5. Whether the Trial Court erred in excluding and prohibiting evidence as to the circumstances and interpretation of the Contract?

V. STATEMENT OF FACTS

Scully founded and operated Pelican for several years prior to the events at issue in this case. In 2021, Laris expressed interest in investing in Pelican. In May 2021, Laris presented a letter of intent to Scully outlining the terms of a possible investment in Pelican.¹⁸ Laris then presented Scully the Contract on September 6, 2021 for the first time, without warning, under constraints imposed by Laris, and had him sign the Contract.¹⁹

The Contract was dramatically different in several respects to the letter of intent Laris provided, including: 1) requiring Scully to personally guarantee MSB's \$45,000,000.00 loan to Pelican; 2) requiring Pelican and Scully to repay loan disbursements "of any and all amounts... on the first day of each month after the first loan disbursement or draw is made," which set up an immediate default scenario for any loaned amounts; and 3) created new membership interest in Pelican and provided 50.1% of the total membership interest to MSB, leaving 49.9% ownership to Scully. None of these items were addressed in the prior letter of intent.²⁰

The Contract also provided that MSB "is able to loan the capital needed by Pelican..." and that for making the loan, MSB would receive the Pelican membership interest. The Contract provided only one obligation for MSB:

Millennium Supply Boats, LLC and/or its designee hereby provides a loan to Pelican, in the form of cash and/or a line(s) of credit up to FORTY-FIVE MILLION (\$45,000,000.00) DOLLARS. All draws and/or disbursements of cash, credit or value under this loan and/or line of credit require the explicit written approval of Ross Laris. All amounts loaned by Millennium to Pelican shall bear interest payable to Millennium by Pelican in the amount of 5% per annum for the time each such draw or disbursement is made. All direct loans or

¹⁸ R. Exhibit P-1 (proffer). The terms included MSB providing \$5,000,000.00 in working capital, \$45,000,000.00 for equipment, Scully would continue to manage the companies, and there was no personal guaranty by Scully. *See also* R. Vol. 1, p.5.

¹⁹ R. Vol. 1, p.6 and R. Vol. 6, p.1351-52.

²⁰ R. Vol. 1, p.6.

draws on line(s) of credit by Pelican shall be considered loans from Millennium to Pelican.

However, the Contract also made the single obligation of MSB to loan money to Pelican illusory:

Despite any language above, neither Millennium, nor Ross Laris (nor any designee of either) shall be obligated to advance any funds or authorize any draws on the line of credit in favor of Pelican. Such advances (loans) or draws on the line of credit shall be at the complete discretion of Ross Laris or Millennium.

The Contract also contained several default provisions. It provided for the acceleration of all amounts due, and upon default, "All ownership and membership of Pelican/Pelican Companies shall be immediately transferred from Jonathan Scully and Pelican/Pelican Companies to Millennium. Such transfer does not release Guarantor, Jonathan Scully, from his obligations as Guarantor under this agreement."

Without Scully knowing the Contract would be presented on September 6th, Laris had promised to provide Pelican with \$1,000,000.00 on that date to support immediately available construction work. Upon Scully's arrival, Laris refused to provide the \$1,000,000.00 without Scully signing the newly presented Contract.²¹ Scully and Laris signed the Contract and the \$1,000,000.00 was deposited and put to work in Pelican's operations. MSB also made additional loans of approximately \$1,500,000.00 to Pelican over the next few months, at Scully's request as manager of Pelican. Scully developed a plan to grow Pelican and utilize additional amounts of the \$45,000,000.00 loan commitment made by MSB.

However, within months of the signing of the Contract, MSB refused to fulfill its loan obligations to Pelican.²² This was despite legitimate requests and needs of

²¹ R. Vol. 6, p.1364; *see also* Defendants/Appellees' Opposition to Plaintiffs/Appellants' Motion for Expedited Consideration of Plaintiffs' Motion to Stay, p.13.

²² R. Vol. 6, p.1366; Exhibit P-3 and R. Vol. 1, p.10.

the Pelican businesses, and despite Laris'/MSB's promise of availability of \$45,000,000.00 for support and growth of Pelican. Laris and MSB stated they did not have the money to lend and could not otherwise arrange for additional capital for Pelican.²³ The failure by MSB to make the committed loan crippled Pelican, as investments in developing Pelican's business had been set in motion that required the committed funds.²⁴ Scully continued to manage Pelican under the significant financial strain caused by MSB's failure to loan more money as it had agreed.²⁵ Notably, MSB/Laris raised no issue regarding Mr. Scully's management of Pelican prior to MSB refusing to meet its loan obligation under the Contract.

On the other hand, Laris undertook to try to find a buyer of Pelican to "flip" it to make a return.²⁶ As part of Laris' effort to find a buyer of Pelican, he required Scully to sign the 10 operating agreements he drafted for the Pelican businesses.²⁷ Laris used the enticement that signing the operating agreements would facilitate millions of dollars to Scully as part of a sale, and the threat that if he did not sign, MSB would enforce the illegitimate "personal guaranty" under the Contract.²⁸

The operating agreements specifically do not affect the parties right to litigate disputes related to the Contract. They do not supersede, incorporate, or merge the Contract into them.

18.8 Integration; Prior Operating Agreements. This Agreement embodies the entire agreement and understanding between the Members regarding the subject matter hereof, and, as such, supersedes any prior agreements or understandings, whether verbal or written, regarding the subject matter hereof. However, this Agreement does not supersede the terms of Exhibit "A."

²³ R. Vol. 6, p.1351 and p.1367.

²⁴ R. Vol. 1, p.10.

²⁵ *Id.*

²⁶ R. Vol. 1, p.14.

²⁷ *Id.*

²⁸ R. Vol. 1, p.15.

Therefore, the operating agreements provide no basis for arbitration of issues under the Contract.²⁹

Laris'/MSB's manipulation of Pelican and Scully went even further. Instead of funding equipment acquisition for Pelican as addressed by the Contract, in March 2022 Laris formed a separate company, LAC Equipment, LLC ("LAC"), with Laris as the sole member.³⁰ Thereafter, LAC acquired approximately \$10,000,000.00 in equipment, all of which was acquired with or near 100% financing and very little capital put down by LAC for payment on the new equipment.³¹ Laris did not communicate the financing terms to Scully or Pelican for these large acquisitions.³² Laris/LAC simply bought excessive amounts of equipment, and made Scully/Pelican rent it and pay the (undisclosed) related notes.³³ Pelican was not in position to profitably rent and manage such a large infusion of equipment and accompanying debt, particularly with MSB's refusal to provide funding for operations, as agreed under the Contract.

Laris required Pelican to pay these financed amounts to LAC so that LAC could pay its creditors, and so LAC (Laris), rather than Pelican, would own the equipment (and take tax depreciation credits on the equipment).³⁴ The amount due on the financed amounts exceeded the revenue Pelican could generate in renting the

²⁹ Further, Section 18.1 provides for litigation:

18.1 Choice of Law. The provisions of this Agreement shall be construed and enforced in accordance with the laws of the State of Louisiana, without regard to any conflicts of laws policies or principles. *If any dispute arising out of this Agreement requires judicial resolution, the parties agree that any such matter shall be litigated only in a court of competent jurisdiction located in Terrebonne Parish, Louisiana.* The parties hereby *irrevocably submit to the exclusive jurisdiction of such courts* and waive the defense of forum non-conveniens to the maintenance of any such action or proceeding in such venue. (Emphasis added.)

³⁰ R. Vol. 1, p.11.

³¹ *Id.*

³² R. Vol. 1, p.12.

³³ R. Vol. 6, pp.1370-1374 and R. Vol. 1, p.12.

³⁴ R. Vol. 1, pp.11-12.

equipment, so it was a losing arrangement for Pelican and Scully, but a windfall to Laris and LAC.³⁵

When Scully protested Pelican paying the LAC charges, Laris again threatened Scully with enforcing his “personal guaranty” and the “default” that purportedly existed under the Contract, despite MSB failing to meet its loan commitment.

Laris and LAC greatly increased the amounts demanded in 2023 when LAC’s financing terms for the equipment allegedly increased.³⁶ The increased demand for payment to LAC, combined with the lack of funding from MSB, meant Pelican could not meet all of its monthly payment obligations, including obligations to long-term local vendors of Pelican that Scully had worked with for years prior to Laris.³⁷ Nevertheless, Scully attempted to make the businesses successful, despite Laris’ contrary self-dealing and failure of MSB to provide its committed funding under the Contract.³⁸

Laris continued to try to use other people’s money to fund Pelican and to siphon money into Laris’ other businesses, LAC and MSB, with no benefit to Pelican or Scully.³⁹ Scully refused to go along with the last two unreasonable “deals” presented by Laris, which were good for Laris but bad for Scully and Pelican.⁴⁰

It was only after Scully refused to continue to go-along with Laris depleting Pelican that in April 2024, Laris and one of his employees arrived at the Pelican’s offices and declared that they were now in charge and Scully was no longer allowed at the businesses or to be involved in the businesses.⁴¹ Scully attempted to address

³⁵ R. Vol. 6, p.1399 and R. Vol. 1, p.12.

³⁶ R. Vol. 1, p.16.

³⁷ *Id.*

³⁸ *Id.*

³⁹ R. Vol. 1, p.15.

⁴⁰ R. Vol. 6, pp.1369-74, 1377-78 and R. Vol. 1, p.16.

⁴¹ R. Vol. 1, p.20.

Laris/MSB's position and purported basis for expelling him as full-time manager/employee from Pelican to no avail and this lawsuit was initiated.⁴²

Laris and MSB expelled Scully from his businesses in complete reliance on the unenforceable Contract and despite MSB's failure to make the loan. Further, MSB's actions created an untenable financial situation for Pelican. Laris/MSB have relied upon their own manipulations, failures, and unclean hands for the expulsion of Scully from Pelican.

Laris/MSB represented in 2021 they were making a substantial investment in Pelican, upon which Pelican and Scully relied, but they then wrote the Contract such that they really made no commitment at all. Not only did they not meet their commitment, they strapped Pelican with more debt for equipment to be owned by Laris' other companies, in Laris' self-interest. They have now expelled Scully from his own companies and sole source of income.

In November 2024, prior to the injunction hearings, Laris, MSB, LAC, and Pelican (at Laris' direction) instituted an arbitration with the American Arbitration Association ("AAA") against Scully, as respondent.⁴³ The claimants in the arbitration assert a provision in the Pelican operating agreements provide a basis for arbitration.⁴⁴

On January 15, 2025, the Trial Court granted a preliminary injunction against Scully and in favor of Laris/MSB and denied Scully and Pelican's requests for preliminary injunction against Laris and MSB, as well as to enjoin further arbitration proceedings.⁴⁵

⁴² *Id.*

⁴³ R. Vol. 5, pp.1154, 1188-89.

⁴⁴ R. Vol. 1, p.63.

⁴⁵ R. Vol. 6, p.1308 (judgment denying Plaintiffs' request for preliminary injunction).

VI. SUMMARY OF THE ARGUMENT

Under the Contract, MSB purports to receive 50.1% membership interest in Pelican for the capital contribution of a loan of up to \$45,000,000.00. However, the loan obligation is coupled with the statement that MSB is not "obligated to advance any funds or authorize any draws on the line of credit in favor of Pelican. Such advances (loans) or draws on the line of credit shall be at the complete discretion of Ross Laris or Millennium." This suspensive condition at the whim of the obligor "makes the obligation null." La. C.C. Art. 1770. Therefore, the Contract "is deemed never to have existed" and the parties are to be "restored to the situation that existed before the contract was made." La. C.C. Art. 2033. As the Civil Code applies to the Contract, Scully is the sole member of Pelican.

Alternatively, if the Contract has any validity, MSB has forfeited its membership interest in Pelican by failing to make its capital contribution of a loan of \$45,000,000.00. Pelican/Scully has made demand on MSB for contribution of the loan proceeds and MSB has failed to make the loan. Pursuant to La. R.S. 12:1322(B):

"If a member does not make the required contribution of property or services, he or his personal representative is obligated, at his or his personal representative's option, to either contribute cash equal to that portion of value of the stated contribution which has not been made or forfeit his entire membership interest..." (Emphasis added).

MSB's refusal to make its capital contribution that was required to obtain 50.1% interest in Pelican justifiably results in its forfeiture of its entire membership interest in Pelican.

Under either of the analysis above, Scully is the sole and controlling member of Pelican and MSB is not a member of Pelican. Likewise, as a result, there is no basis for any applicable or valid agreement to arbitrate any disputes between the parties.

VII. LAW AND ARGUMENT

A. Standard of Review

Generally, a party seeking issuance of a preliminary injunction bears the burden of establishing by a preponderance of the evidence a *prima facie* showing that they will prevail on the merits and that irreparable injury or loss will result without the preliminary injunction. *Tobin v. Jindal*, 2011-0838, p. 4 (La. App. 1 Cir. 2/10/12), 91 So.3d 317, 320. While a trial court's ruling will not be disturbed on appeal absent an abuse of that discretion, this standard is based upon a conclusion that the trial court committed no error of law and was not manifestly erroneous or clearly wrong in making a factual finding necessary to the proper exercise of its discretion. *Cooper v. Theard*, 2021-1574 (La. App. 1 Cir. 8/11/22), 348 So.3d 829, 833.

Interpretation of a contract is a question of law, subject to *de novo* review by this Court. *Pelican Educational Foundation, Inc. v. Louisiana State Bd. of Elementary and Secondary Educ.*, 2011-2067 (La. App. 1 Cir. 6/22/12), 97 So.3d 440, 445. "The cardinal rule of contractual interpretation is that the intention of the parties governs." *Id.* at 834. "When a clause in a contract is clear and unambiguous, the letter of that clause should not be disregarded under the pretext of pursuing its spirit, as it is not the duty of the courts to bend the meaning of the words of a contract into harmony with a supposed reasonable intention of the parties." *Id.*

"When factual findings are tainted by a trial judge's erroneous exclusion of evidence, the verdict is not entitled to the appellate court's deference under a clearly wrong or manifestly erroneous standard." *Doucet v. Champagne*, 94-1631 (La. App. 1 Cir. 4/7/95), 657 So.2d 92, 95. "When prejudicial error has been committed in excluding evidence, the verdict must be set aside and, under the authority granted in Louisiana Constitution Art. V, § 10(B), the appellate

court must make an independent review of the record and decide the case on the merits, giving no weight to the factfinder's conclusions." *Id.*

"Error is prejudicial when it consists of the exclusion of evidence related to a material point in issue and adversely affects the substantial rights of the party opposed to the exclusion." *Id.*

B. MSB is not a Member of Pelican and Scully is the Sole Member.

1. The Contract is null.

The Contract provided MSB would receive 50.1% interest in Pelican for the capital contribution to Pelican of:

"a loan to Pelican, in the form of cash and/or a line(s) of credit up to FORTY-FIVE MILLION (\$45,000,000.00) DOLLARS."⁴⁶

This is the only obligation for MSB in the Contract. Yet, the Contract thereafter provides in Section II Terms, #6:

"Despite any language above, *neither Millennium, nor Ross Laris (nor any designee of either) shall be obligated to advance any funds* or authorize any draws on the line of credit in favor of Pelican. Such advances (loans) or draws on the line of credit *shall be at the complete discretion of Ross Laris or Millennium.*"⁴⁷ (Emphasis added.)

The absurdity of these Contract provisions is only rivaled by MSB's/Laris' efforts to use them to justify taking the Pelican businesses from Scully. Scully foolishly believed MSB/Laris would honor the \$45,000,000.00 loan commitment and allow Scully to run Pelican after signing the Contract. However, MSB/Laris instead loaned only a small fraction of the total and began running Pelican, ultimately throwing Scully out of operations when Scully stood up to Laris' unfounded self-dealing with his other company, LAC, and depriving Pelican of its assets.

⁴⁶ R. Vol I, pp.33-34.

⁴⁷ *Id.*

Louisiana law protects Pelican and Scully from MSB's illusory loan commitment and prevents Laris from taking advantage of Scully in the manner he has.⁴⁸ The suspensive condition of loaning funds under the Contract was "at the complete discretion of Ross Laris or Millennium." La. C.C. Article 1770 directly applies and states:

"A suspensive condition that depend solely on the whim of the obligor makes the obligation null."

Plainly, the loan obligation (MSB's sole obligation under the Contract) to Pelican is null pursuant to La. C.C. Art. 1770.⁴⁹ The result is the Contract is to be "deemed never to have existed. The parties must be restored to the situation that existed before the contract was made." La. C.C. Article 2033.

The Louisiana Supreme Court, addressing null contracts, has stated:

"LSA-C.C. art. 1966 provides that an obligation cannot exist without a lawful cause. Cause is the reason that a party obligates itself. LSA-C.C. art. 1967. The cause of an obligation is unlawful when the enforcement of the obligation would produce a result prohibited by law or against public policy. LSA-C.C. art. 1968. A contract is absolutely null when it violates a rule of public order, as when the object of a contract is illicit or immoral. A contract that is absolutely null may not be confirmed. LSA-C.C. art. 2030. Persons may not by their juridical acts derogate from laws enacted for the protection of the public interest. Any act in derogation of such laws is an absolute nullity. LSA-C.C. art. 7."

Baker v. Maclay Properties Co., 94-1529, p. 14 (La. 1/17/95), 648 So.2d 888, 895-96.

⁴⁸ "La. C.C. art. 1966 provides that '[a]n obligation cannot exist without a lawful cause.' La. C.C. art.1968 provides that '[t]he cause of an obligation is unlawful when the enforcement of the obligation would produce a result prohibited by law or against public policy.' Thus, if a contract has as its cause or its object the violation or circumvention of a state statute, it is an absolute nullity in contravention of public order." *Bach Inv. Co. v Philip*, 98-667, p. 3 (La. App. 5 Cir. 12/16/98), 722 So.2d 1222, 1223.

⁴⁹ As the sole obligation of MSB under the Contract and prohibited by Article 1770, the correlative delivery of ownership interest in Pelican is unlawful under La. C.C. Art. 1968: "The cause of an obligation is unlawful when the enforcement of the obligation would produce a result prohibited by law or against public policy."

The Civil Code provides the just and common-sense outcome from the suspensive condition at MSB's/Laris' whim under the Contract – MSB has no ownership interest in Pelican and Scully is the 100% owner of Pelican. Also, as a consequence, there is no valid “operating agreement” between Scully and MSB because MSB is not a member of Pelican; therefore, there is no applicable arbitration agreement. Pursuant to La. C.C. Art. 2033, the parties are to be restored to the situation prior to the Contract where Scully was the 100% owner of Pelican, and no operating agreements between Scully and MSB existed.

The Contract that purports to give Laris/MSB 50.1% membership interests in Pelican is null and does not provide Laris/MSB any membership interest in Pelican. Laris's/MSB's membership in Pelican is based on the committed capital contribution of a loan to Pelican for \$45,000,000.00. However, the Contract (prepared by Laris/MSB) then states the loan is to be made solely at the whim of the obligor, MSB/Laris. As such, the obligation is null pursuant to La. Civil Code Art. 1770 and MSB/Laris have no ownership in Pelican under the Contract.

The law does not allow MSB/Laris, on one hand, to promise a \$45,000,000.00 loan as a capital contribution to receive controlling interest in Pelican, and on the other hand only provide the funds at their whim. The nullity and public order provided under Article 1770 is designed to protect Scully and Pelican from being taken advantage of by MSB/Laris in these circumstances. As a result of the nullity, the parties are to be restored to the prior position, where Scully was 100% owner of Pelican. See La. C.C. Art. 2033.

In an effort to avoid their failure to make the capital contribution, Laris/MSB suggests the contract did not really require Laris/MSB to provide a \$45,000,000.00 loan to Pelican – and Laris was free to loan, or not loan, anything that he chose.⁵⁰

⁵⁰ See language from the September 6, 2021 contract: “Despite any language above, neither Millennium, nor Ross Laris (nor any designee of either) shall be obligated to advance any funds

This position by Appellees is exactly what La. C.C. Art. 1770 refutes and declares as "null." Pelican and Mr. Scully certainly would not have agreed to give up majority interest in Pelican for a loan, but only if/as Laris wants to, as Laris suggests under his "interpretation" of the loan commitment.⁵¹ Laris' con of Pelican and Scully cannot be allowed by this Court.

2. Alternatively, MSB has failed to make its capital contribution and has forfeited any interest in Pelican.

It is undisputed that MSB did not loan or provide a line of credit to Pelican for \$45,000,000.00.⁵² Pelican has made demand for the loan commitment, to no avail.⁵³ MSB has taken the position that it was not required to do so because of the "complete discretion" language of the Contract. Laris' testimony doubled down on his purported discretion to loan *any amounts* at all under the Contract.

Q. So fair to say that Mr. Scully is -- is relinquishing and those creation of membership interest that Millennium's gonna get in exchange for the 45 million dollar loan?

MR. FLOTTE:

Object to the form.

ROSS LARIS:

Yeah. I disagree.

I mean, if you read this contract, it was up to 45 million at my discretion.

R. Vol. 6, p.1356.

Laris further testified he believed MSB obtained a majority interest in Pelican simply by lending \$1,000,000.00 (not \$45,000,000.00) despite no such reference in

or authorize any draws on the line of credit in favor of Pelican. Such advances (loans) or draws on the line of credit shall be at the complete discretion of Ross Laris or Millennium."

⁵¹ R. Vol. 6, p.1356.

⁵² R. Vol. 6, p.1366

⁵³ R. Vol. 6, pp.1366-67; *see also* R. Vol. 1, p.23.

the Contract, and in direct conflict with the dollar amount presented to Scully and Pelican in the Contract.⁵⁴

Yet, the Contract provides that Pelican is "in need of working capital" and that MSB "is able to loan the capital needed by Pelican and/or arrange one or more lines of credit to provide it to Pelican..." The Contract also provides that "in exchange for making the above loan [\$45,000,000.00], and for other valuable consideration already given, Millennium Supply Boats, LLC hereby receives in full ownership 50.1% interest in ownership and membership in all of the Pelican Companies listed above... leaving Jonathan Scully 49.9% ownership and membership interest in Pelican."

Laris and Scully also testified that MSB did not have the money to loan to Pelican that is addressed in the Contract.⁵⁵

MSB has refused to make its capital contribution of a loan of \$45,000,000.00 to acquire membership interest in the Pelican limited liability companies. The limited liability statutes directly address the failure to make a capital contribution. La. R.S. 12:1322(B) provides:

"If a member does not make the required contribution of property or services, he or his personal representative is obligated, at his or his personal representative's option, to either contribute cash equal to that portion of value of the stated contribution which has not been made or *forfeit his entire membership interest*, or, in the case of a personal representative, forfeit all rights in such membership interest to which he may otherwise be entitled."
(Emphasis added.)

MSB has not made its agreed capital contribution of a \$45,000,000.00 loan, so it has forfeited any membership interest it may have acquired under the Contract. As a result of Laris'/MSB's failure to make the promised loan, MSB does not have a membership interest in Pelican.

⁵⁴ R. Vol. 6, p.1357.

⁵⁵ R. Vol. 6, p.1350.

Therefore, the Pelican operating agreements have no effect. MSB is not a member of Pelican, so the operating agreements do not govern any relationship between MSB and Scully as members of Pelican.⁵⁶

C. There is no Applicable or Valid Arbitration Agreement.

1. The Contract does not contain an arbitration provision.

In addition to the consequence the invalidity of the Contract has on the operating agreements, this case is not referable to arbitration under the plain terms of the Contract. Not only does the Contract not contain an arbitration clause, the Contract contains a litigation and venue clause: "The parties agree that any legal action taken between the parties, arising out or in any way related to this contract and/or their business relationship, shall be filed and *litigated* in the *Seventeenth Judicial District for Lafourche Parish, Louisiana.*"⁵⁷ There is no arbitration provision in the Contract, so it is not appropriate for an arbitrator to address determinations on claims relating to the Contract. Rather, by the specific term of the Contract, only the district court, and this Court on appeal, can address the Contract and related rights, obligations, and claims.

Further, Claimants' Statement of Claims for Arbitration filed in the arbitration proceeding relies heavily on the Contract (not the operating agreements) as the only basis for the claims asserted against Scully.⁵⁸ These include but are not limited to:

- "Whether respondent Jonathan Scully is in default of the company loan agreements and his personal guaranty."
- "Declaratory relief award confirming that the written operating agreements of the various companies and the personal guarantee are valid, and rejecting all of Jonathan Scully's arguments asserted in

⁵⁶ This truism is recognized in *Anderson v. Succession of Bergeron*, 2016-0922, p.13 (La. App. 1 Cir. 4/12/17); 217 So.3d 1248, 1258, *writ denied*, 2017-0760 (La. 9/22/17); 227 So.3d 825, addressing that operating agreements are drafted "for the specific purpose of delineating the obligations, duties, and powers of all the members of the LLC."

⁵⁷ R. Vol. 1, p.37; Vol. 6, p.1358.

⁵⁸ See R. Vol. 5, pp.1188-89.

Docket No. C-150707 in the 17th Judicial District Court, Parish of Lafourche, State of Louisiana.”

- “QUO WARRANTO: Requiring respondent Jonathan Scully to prove by which authority he claims to be a manager of the claimant limited liability companies.”
- “BREACH OF LOAN GUARANTIES AND ACCELERATION OF DEBT OWED: Whether respondent Jonathan Scully is in material breach of the loan guaranties and the amount of the debt owed by him.”

The issues and claims of both Appellants and Appellees arise directly out of the Contract and therefore must be litigated under the dispute resolution procedures of the Contract.

2. The operating agreements do not supersede the Contract.

Appellees have incorrectly relied upon the operating agreements’ arbitration provisions as the basis for arbitration.⁵⁹ However, the operating agreements do not affect the litigation provision of the Contract. The operating agreements state:

18.8 Integration; Prior Operating Agreements. This Agreement embodies the entire agreement and understanding between the Members regarding the subject matter hereof, and, as such, supersedes any prior agreements or understandings, whether verbal or written, regarding the subject matter hereof. However, this Agreement does not supersede the terms of Exhibit “A.”

Exhibit “A” is defined as the Contract. Therefore, even by the terms of the operating agreements, they do not supersede the Contract’s litigation and venue clause referencing the 17th JDC. The Contract’s litigation clause controls and disputes arising from the Contract are not subject to arbitration.

Under the terms of the Contract and the operating agreements, the parties are to litigate issues arising under the Contract in court. The issues involved in both this

⁵⁹ R. Vol. 1, p.63: Article 16.2. (“All disputes or issues between the Member(s) which cannot be resolved by agreement or by an appropriate vote of the Member(s) shall be decided by binding arbitration in accordance with the Commercial Rules of the American Arbitration Association.”)

lawsuit and the arbitration arise out of and are related to the Contract. As a result, these issues and claims are not referable to arbitration.⁶⁰

The operating agreements also call for state court jurisdiction in Terrebonne Parish, Louisiana for judicial resolution of disputes.⁶¹ Article 18.1 of the operating agreements states:

“If any dispute arising out of or related to this Agreement requires judicial resolution, the Parties agree that any such matter shall be *litigated* only in a *court of competent jurisdiction located in Terrebonne Parish, Louisiana*. The parties hereby irrevocably submit to the *exclusive jurisdiction of such courts* and waive the defense of forum non-conveniens to the maintenance of any such action or proceeding in such venue.” (emphasis added).

The internal provisions of the operating agreement conflict as to litigation in court and arbitration. When an agreement contains conflicting dispute resolution provisions, it cannot be concluded that the parties unambiguously agreed to arbitrate. *Delta Admin. Servs., L.L.C. v. Limousine Livery, Ltd.*, 2015-0110, p.12 (La. App. 4 Cir. 6/17/15), 216 So.3d 906, 914. Instead, the inclusion of these two conflicting provisions renders the operating agreements ambiguous. *Id.*

Notably, the *Delta* case indicates extrinsic evidence is appropriate to address the intent of the parties. However, in this case, the Trial Court did not permit documentary evidence or testimony regarding the formation of the Contract or the operating agreements and otherwise significantly limited the evidence presented at the hearing.⁶²

As a result of the conflicting dispute resolution provisions contained within the operating agreements, arbitration is not an exclusive means of resolution and thus cannot be invoked to preclude this litigation.

⁶⁰ La. R.S. 9:4202. See also *A & B Valve & Piping Sys., L.L.C. v. Commercial Metals Co.*, 2009-1535, p. 5 (La. App. 3 Cir. 1/27/10); 28 So.3d 1202, 1206. (“as it pertains to the validity of the arbitration provision at issue, *should be subjected to supervisory review before this matter proceeds to arbitration.*”) (Emphasis added).

⁶¹ R. Vol.1, p.64.

⁶² Exhibit P-1, proffer; R. Vol. 6, p.1344.

D. The Trial Court Improperly Excluded Evidence and Prohibited Testimony.

The Trial Court had no interest in hearing evidence on Appellants' central positions addressing the nullity of the Contract or consequences for MSB's failure to meet its loan obligation. Instead, the Trial Court had already decided MSB was the majority owner and only wanted the trial to address Appellees' injunction request and Scully's efforts at the end of 2024 to further prevent MSB/Laris from damaging Pelican.⁶³ However, Appellants' claims include claims for fraud involving the formation and content of the Contract, the unenforceability of the Contract terms, the intention for a \$45,000,000.00 loan to Pelican, and MSB's/Laris' related actions and representations.⁶⁴ The Trial Court prevented evidence on these items, particularly the letter of intent Laris/MSB had presented to Scully, and related ambiguities suggested by Laris/MSB under the Contract.

Additionally, contrary to the terms of the Contract, MSB/Laris took the position that even before the Contract was signed (and before the initial \$1,000,000.00 was provided on September 6, 2021), MSB had already provided sufficient consideration to become the controlling member.⁶⁵ Positions taken by both Appellants and Appellees called for evidence surrounding the formation and terms of the Contract, if the Contract was not determined to be null on its face.

However, the Trial Court during a pretrial conference indicated it would enter an injunction against Scully, though Appellants stated they would put on evidence regardless of the prehearing decision of the Trial Court.⁶⁶ The Trial Court then erred and significantly curtailed the presentation of evidence at the trial. Scully's

⁶³ R. Vol 6, p.1355.

⁶⁴ R. Vol. 1, pp.20-25

⁶⁵ R. Vol. 4, p.801 ("Ownership and membership were transferred in exchange for capital contribution of loans previously made by MSB.")

⁶⁶ R. Vol. 6, pp.1334-37.

declarations on these matters that were limited by the Trial Court are found in his Verified Petition.⁶⁷

Laris testified that the letter of intent was prepared by his attorney and provided to Scully.⁶⁸ However, the Trial Court erroneously refused to allow the letter of intent into evidence and further instructed Scully's counsel that no additional questions be asked related to the letter of intent.⁶⁹

Even in addressing an objection to questions about the Contract on direct examination of Laris, the Trial Court stated: "Your going back to 2021; this is 2025. I'm not sure where you are going, but its not gonna to get you where I think you want to go. That's four years. Bring it to 2024 or 2025."⁷⁰ In addressing the issues about the failures of the Contract pursuant to Art. 1770 and the failure to make the capital contribution, the Trial Court stated: "*That's not the issue before the Court.*"⁷¹

To any extent this Court should not otherwise determine MSB is not a member of Pelican due to nullity pursuant to La. C.C. Art. 1770 or the failure to make its capital contribution under La. R.S. 12:1322(B), the Court should conduct a *de novo* review of the Record and grant the injunctive relief requested by Appellants and reverse the injunctive relief in favor of Appellees, which is just, reasonable, and consistent with the facts and applicable law.

VIII. CONCLUSION

The Contract is a textbook example of a null obligation under La. C.C. art. 1770 because performance is at the whim of the obligor. The law prevents MSB from obtaining anything for such a conditional promise. Here, it prevents MSB from

⁶⁷ R. Vol. 1, pp.2-27.

⁶⁸ R. Vol. 6, pp.1341.

⁶⁹ R. Vol. 6, pp.1341-45, 1362.

⁷⁰ R. Vol. 6, pp.1354.

⁷¹ R. Vol 6, p.1355. The Trial Court was also combative with Scully, directly asking questions of him and making the point while he was on the witness stand that he signed the Contract, but would not allow him to expand on his intentions and understanding when he signed it. *Id.* at 1364-65.

obtaining majority and controlling interest in the Pelican businesses for the promise of performance, only if it wants to.


Alternatively, if the Contract can be considered valid for any purpose, MSB has failed to provide its capital contribution of a \$45,000,000.00 loan/credit. Because it has not made its capital contribution, it has forfeited any interest in Pelican.

Both the Civil Code and the limited liability company statutes recognize the simple contract principle: a party does not get a benefit without a binding obligation and actual performance. MSB either failed to make a binding obligation, or it failed to meet its obligation. Under either scenario, MSB is not a member of Pelican and there is no remaining basis for arbitration of the disputes.

The Court should reverse the judgment of the Trial Court that granted Appellees injunctive relief and render judgment granting the injunctive relief requested by Appellants.

Respectfully Submitted:

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BY: 
J. WENDELL CLARK (# 04150)
MARK L. BARBRE (# 30385)
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Counsel for Appellants, Jonathan Scully, et al

AFFIDAVIT/CERTIFICATE OF SERVICE

BEFORE ME, the undersigned authority, personally appeared

MARK L. BARBRE

who, being first duly sworn, stated that:

He is an attorney for Jonathan Scully, et al, Appellants in the above and foregoing appeal, and that all of the allegations of fact therein contained are true to the best of his knowledge, upon information and belief.

He has served a copy of the foregoing original brief of appellants upon the following by e-mail and/or United States mail, postage pre-paid and properly addressed:

Honorable Rebecca N. Robichaux
JUDGE, LAFORCE PARISH
17TH JUDICIAL DISTRICT COURT
201 Green Street, 1st Floor
Thibodaux, LA 70301
divisiona@17thjdc.com

Mr. David M. Flotte
SALLEY HITE MERCER & RESOR
365 Canal Street
Suite 1710
New Orleans, LA 70130
dflotte@shmrllaw.com

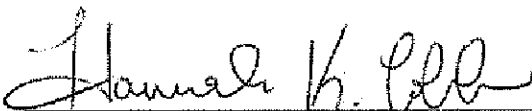
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Ms. Michelle Riviere
Mr. Evan M. Zizzi
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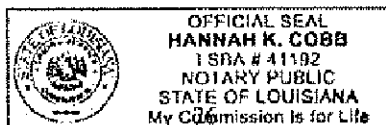


MARK L. BARBRE

SWORN TO AND SUBSCRIBED before me this 1st day of July, 2025.



NOTARY PUBLIC



APPENDIX

- A. February 28, 2025 Judgment denying Plaintiffs' requests for Preliminary Injunction, R. Vol. 6, pp.1308-1309
- B. January 13, 2025 Judgment granting Defendants/Appellees' Preliminary Injunction, R. Vol. 6, pp.1321-1323
- C. Oral reasons for Judgment, R. Vol. 6, pp.1413-1415

Lafourche Parish Clerk of Court C-150707
Filed Feb 26, 2025 4:30 PM A
Holly E. Torres
Deputy Clerk of Court
E-File Received Feb 26, 2025 4:19 PM

JONATHAN SCULLY, ET AL

VERSUS

ROSS LARIS, ET AL

DOCKET NO.: C-150707 DIV. A

17TH JUDICIAL DISTRICT COURT

PARISH OF LAFOURCHE

STATE OF LOUISIANA

JUDGMENT

This matter came for hearing before the Court on January 15, 2025 on the following: Plaintiffs' request for injunctive relief pursuant to the Verified Petition for Request for Temporary Restraining Order and pursuant to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction; and Defendants' Exceptions of Improper Cumulation of Actions, Exception of Improper Use of Summary Proceedings, Exception of No Right of Action, and Exception of Lack of Procedural Capacity, and request for injunctive relief pursuant to the Petition for Temporary Restraining Order and Preliminary Injunction Pending Arbitration. Defendants' request for injunctive relief is addressed by a separate judgment of the Court signed in Open Court on January 15, 2025.

In consideration of the pleadings, the law, evidence presented, and arguments of counsel, and for reasons stated in Open Court:

IT IS ORDERED that Plaintiffs' request for injunctive relief pursuant to the Verified Petition for Request for Temporary Restraining Order and Injunctive Relief is hereby **DENIED**.

IT IS FURTHER ORDERED that Plaintiffs' request for injunctive relief pursuant to the Motion for Temporary Restraining Order and Preliminary Injunction is hereby **DENIED**.

SIGNED in Thibodaux, Louisiana on this _____ day of February, 2025.

SIGNED ELECTRONICALLY on February 28, 2025



HON. JUDGE REBECCA N. ROBICHAUX
17TH JUDICIAL DISTRICT COURT

RULE 9.5(b) CERTIFICATE

I certify that I circulated this proposed judgment/order to counsel for all parties and/or to self-represented parties by e-mail on January 31, 2025 and that:

No opposition was received; or
 The following opposition was received: Opposition was received and upon revisions thereafter counsel agreed to the form of the judgment submitted.

I have allowed at least five (5) working days before presentation to the court.

Certified this 26th day of February, 2025.

/s/ Mark L. Barbre
Mark L. Barbre

PLEASE MAIL A COPY OF THE SIGNED ORDER TO:

All Counsel

Lafourche Parish Clerk of Court C-150707
Filed Mar 11, 2025 2:54 PM A
Jude Breaux
Deputy Clerk of Court
E-File Received Mar 11, 2025 2:44 PM

JONATHAN SCULLY, ET AL
VERSUS
ROSS LARIS, ET AL

DOCKET NO: C-150707 | DIV. A
17TH JUDICIAL DISTRICT COURT
PARISH OF LAFOURCHE
STATE OF LOUISIANA

FILED

DEPUTY CLERK

**PRELIMINARY INJUNCTION AND ORDER TO STAY LITIGATION PENDING
ARBITRATION EXCEPT TO ENFORCE PRELIMINARY INJUNCTION**

IT IS ORDERED that a Preliminary Injunction is hereby issued in favor of the following companies pending further orders of the Court as follows:

IT IS ORDERED that a Preliminary Injunction is issued and Jonathan Scully, and those acting in concert therewith, are hereby restrained and enjoined from exercising, or purporting to exercise, any authority or control with respect to the operations, management, finances, employee benefits, credit card accounts, other accounts, or otherwise on behalf of Pelican Companies of America, LLC, Pelican Rentals and Services, LLC, Pelican Contractors of USA, LLC, Pelican Industrial of USA, LLC, Pelican Equipment Company, LLC, Pelican Marine and Oil, LLC, Pelican Transportation and Logistics, LLC, Jonathan Scully Companies, LLC, Pelican Real Estate of America, LLC, and Lake End Rentals, LLC. Such authority and control for the operations, management, or otherwise for these companies is duly recognized to be exercised by Ross Laris or his designee, until further order of this Court.

JONATHAN SCULLY is prohibited now and in the future from taking possession of any property of the Pelican Companies listed below including any company assets, checks, deposits, accounts including Cayman relative to credit card payments from customers, payments, servers, computers, vehicles, keys, drone(s), television(s), USB drives, checks, cash, deposits, credits, rental equipment, office equipment, U.S. Mail and/or other parcels or packages addressed to any of the Pelican Companies (as well as their contents) checks or check stock, and electronic information, stored electronic data, billing statements, bank statements, cancelled checks, or other proprietary information of any kind, furniture, fixtures, equipment, and/or money of the Pelican Companies listed below and further prohibited from taking possession of such money and property or personal use of such property of the following companies: 1) Pelican Companies of America, LLC; 2) Pelican Rentals and Services, LLC; 3) Pelican Contractors of USA, LLC; 4) Pelican Industrial of USA, LLC; 5) Pelican Equipment Company, LLC; 6) Pelican Marine and Oil, LLC;

EXHIBIT A

APPENDIX B 1321

7) Pelican Transportation and Logistics, LLC; 8) Jonathan Scully Companies, LLC; 9) Pelican Real Estate of America, LLC; and 10) Lake End Rentals, LLC (collectively, the "Pelican Companies"). JONATHAN SCULLY is further prohibited from taking any action to close the business office of the Pelican Companies. JONATHAN SCULLY is prohibited from entering into any contracts in the name of or acting in the name of any of the Pelican Companies. Mr. Scully is prohibited from accessing Pelican Companies' mail or delivered parcels to the office building at 107 Tournament Drive, Berwick, LA otherwise known as the brown office. Should Jonathan Scully come into possession of any property, checks or assets including of any of the Pelican Companies, he shall not convert them to his personal use. He shall preserve any such property and notify Ross Laris through counsel or his designee immediately and cooperate for its delivery to Pelican Companies.

IT IS FURTHER ORDERED that JONATHAN SCULLY is prohibited from any administrative access to all of the Pelican Companies' accounts of any type, kind, and nature to Kristie Izaguirre. JONATHAN SCULLY is ordered to return any assets he has in his possession of the Pelican Companies to Comptroller, Kristie Izaguirre. JONATHAN SCULLY is restrained from diverting, taking possession of, or liquidating any assets, cash, checks, and/or funds of the Pelican Companies.

IT IS FURTHER ORDERED THAT PATTERSON STATE BANK will provide sole access to Kristie Izaguirre to all Pelican Company accounts subject to instructions from Manager Ross Laris and it is ordered that Jonathan Scully will be removed from access and administrative rights all counts until further orders of the court.

IT IS FURTHER ORDERED THAT the Temporary Restraining Order issued by the 16th Judicial District Court for the Parish of St. Mary under docket 138571, Division B on July 3, 2024 is void and no longer in effect.

IT IS FURTHER ORDERED that JONATHAN SCULLY will stay at least 50 feet away from the property of the Pelican Companies, including its offices, vehicles, and equipment, except as necessary to return assets to the Pelican office and not take any action to disable office cameras.

This Order is rendered additionally pursuant to American Arbitration Association Rule R-39. The above-captioned matter is hereby stayed, pending Arbitration, except as necessary for this Court to enforce the Preliminary Injunction.

Bond for the Preliminary Injunction is set at \$15,000.00 which is already filed with the Court.

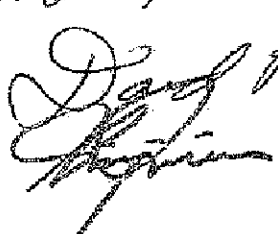
SIGNED in Thibodaux, Louisiana at 4:34 pm on this 15th day of January of 2025.


HONORABLE REBECCA ROBICHAUX
17th JUDICIAL DISTRICT COURT JUDGE

PLEASE SERVE:

JONATHAN SCULLY
Through his Counsel of Record:
J. Wendell Clark
Mark L. Barbre
LONG LAW FIRM, LLP
1800 City Farm Drive, Building 6
Baton Rouge, LA 70806

Approved as to form.
- Mark L. Barbre
for Plaintiffs

Submitted By
Dana Flett


JAN 15, 2025
Alexis M. Clement
Clerk

FILED
JAN 15 2025
Alexis M. Clement
CLERK OF COURT

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Okay. We're in recess for five minutes.
(A brief recess was held at this time.)

THE COURT:

All right.

Okay. On the record, *Scully versus Laris*, I listened very attentively to the evidence presented, the arguments, including our chambers conference earlier.

It is my opinion that the contract and personal guarantee signed on September of '21 -- 6th of '21 is the controlling factor, and it has all the language to help you guys figure out what direction I'm going in. In particular, Number 4, which says that Mr. Laris owns 50.1 and Mr. Scully owns 40 -- 49.9 ownership in all the companies due to signing of this agreement. I do understand on the page -- on the paragraph on Page 5 of 6 that speaks about the document and any dispute arising out of -- any document executed as a result shall be decided by the laws of the State of Louisiana. And we have great laws in the State of Louisiana, and one takes companies to the arbitration process.

And for the record, all the exhibits that you attached at once upon a time, I did read them, made a summary. Each one

BROOKE E. BERGERON
CERTIFIED COURT REPORTER #2014014
DIVISION A - FIRST FLOOR
201 GREEN STREET, THIBODAUX, LA. 70361

1 of them -- each company has its own
2 operating agreement. Each company has
3 the exact same language, except to change
4 the name. And it has a provision for
5 arbitration, as well as the choice law.
6 And in every one of them, it speaks to
7 when you cannot resolve -- when all
8 disputes or issues between the members
9 which cannot be resolved by agreement or
10 by appropriate vote of the members, shall
11 be decided by binding arbitration in
12 accordance with the commercial rules of
13 American Arbitration Association.

14 So for as many times as y'all have
15 signed as many companies as they have --
16 and I think it's probably ten -- there
17 are ten reasons alone why this case is
18 going to arbitration. But in the
19 meantime -- and because y'all have
20 correctly pointed out that the 17th has
21 jurisdiction and venue as a result of
22 this contract 'cause y'all gave it to me
23 -- arbitration and the operating
24 agreements, you ruled -- you signed it
25 there that Terrebonne could make the
26 decision so I'm gonna let you go to
27 arbitration.

28 I thank you for your hard work during
29 the lunch hour. The Court is going to
30 execute the preliminary injunction and
31 order to stay the litigation pending
32 arbitration, except to enforce the

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preliminary injunction. There has to be some kind of resolution immediately to the behavior between the minority and the majority stockholder. Looking from the outside inside, I'm sure some of you sitting here probably could've resolved it as well. It just doesn't have to be the way it is.

So, basically, if this is the last agreement -- I'm going to assume it is. 'Cause although Mr. Laris' attorneys gave it to me, it does have to please serve you.

Did you look at it, Mr. Barbre?

MR. BARBRE:

Your Honor, the document that you have in front of you -- based on our conference in chambers, the presentation of evidence, and visiting with opposing counsel, I anticipated that the defendants would be granted their preliminary injunction, that the plaintiffs would be denied their request from preliminary injunction, and that the Court, relative to the arbitration matters, is gonna send us to arbitration.

So we reserve all of our objections, the arguments that were presented to the Court -- but subject to that, the plaintiffs do not have an issue with the form of the judgment that has been presented by the defendants.

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