

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JEFFREY S. GREEN,)
)
 Plaintiff,)
)
 v.) Case No. 18-2247-CM
)
 CHRISTIAN BLAKE and)
 JOSHUA LEONARD,)
)
 Defendants.)

ORDER

Plaintiff Jeffrey S. Green is a member and manager of 63rd Street Enterprises, LLC (“the LLC”). In this action, he sues Christian Blake, a member and former manager, president, secretary, and treasurer of the LLC; and Joshua Leonard, a member and former manager and chief executive officer of the LLC. Plaintiff alleges defendants breached fiduciary duties owed the LLC’s members, converted LLC assets for their own use, failed to produce an accounting of the LLC’s income and expenses, and made numerous misrepresentations to plaintiff and other members about the LLC’s financial position and Blake’s background and net worth.

In screening this case to ensure the court’s subject-matter jurisdiction, the undersigned U.S. Magistrate Judge, James P. O’Hara, has concluded the answer is not entirely clear. Accordingly, the court requests briefing from the parties on the following issues:

1. Do plaintiff's claims fall under Kansas's choice-of-law statute for foreign LLC's, such that Oregon law applies to the substantive claims?¹
2. Under the applicable law, are all or some of plaintiff's claims derivative in nature?
3. Is the LLC a necessary and/or indispensable party under Fed. R. Civ. P. 19?
4. How do the answers to the above questions impact the resolution of defendants' pending motion to disqualify plaintiff's counsel (ECF No. 9)?

The parties shall submit their briefs on these issues, limited to twenty double-spaced pages, by **September 28, 2018**.

Separately, defendants state in their memorandum in support of their motion to disqualify that they "have e-mail transmissions from attorney Laner confirming his status as attorney and counselor for all parties for this Court's sole review."² Defendants are directed to submit to the undersigned's chambers by **September 28, 2018**, any e-mails they contend support their motion to disqualify.

IT IS SO ORDERED.

Dated September 14, 2018, at Kansas City, Kansas.

¹ The parties might find *Ayres v. AG Processing Inc.*, 345 F. Supp. 2d 1200, 1205-06 (D. Kan. 2004) a useful starting point in researching this question.

² ECF No. 10 at 2. Because defendants are proceeding pro se, the court construes their briefing liberally.

s/ James P. O'Hara
James P. O'Hara
U.S. Magistrate Judge