

TROY LILLIE, ET AL.

DOCKET NO. 581670 SECTION 24

VERSUS

19th JUDICIAL DISTRICT COURT

STANFORD TRUST COMPANY,
ET AL.

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

**ORDER RELATING TO CLASS MEMBER'S MOTION REQUESTING OFI TO
PRODUCE DOCUMENTS RELATING TO OFI'S AFFIRMATIVE DEFENSE IN
ACCORDANCE WITH LA R.S. 6:103 (H)**

1. OFI argues as a basis for not producing Pre-2005 Malfeasance Documents in opposition to the Discovery Motion, that the Pre-2005 Malfeasance Documents are not a part of the claim in this case. The Court disagrees with the argument of OFI. The April 25, 2023 Order of this Court states the following,

"17. This Court is aware of no case law that allows OFI to argue that the documents prior to January 1, 2005, are not relevant, when three courts have considered documents relating to the time frame prior to January 1, 2005, and denied their motion for summary judgement by considering the facts that arose during this time period."

2. The Court hereby once again reaffirms this order and Par. 29 of the Written Reasons dated October 22, 2021, which served as the basis for the denial of the of the OFI Motion for Summary Judgment and the denial of writs by the First Circuit and the Louisiana Supreme Court.

3. Without any legal support, OFI desires to bar the evidence in this case relating to its Pre-2005 Malfeasance notwithstanding the fact that it was the existence of these precise documents that the Class Members put into evidence to defeat OFI's Motion for Summary Judgment filed on June 21, 2021 and it represents the knowledge that OFI had and never acted upon between 2001 and 2008.

4. OFI argues that any knowledge they obtained prior to January 1, 2007 is not relevant to what it failed to bar the purchase of the SIB CDs after January 1, 2007. OFI cites no case law for this legal theory.

5. No case law exists to grant OFI immunity for its failure to bar the sale of the SIB CDs between January 1, 2007, and February 2009 if it is proven that OFI had knowledge of the problems at Stanford Trust prior to January 1, 2007. The length of time that OFI knew of the problems and did nothing is clearly relevant to the establishment of their alleged intentional and willful conduct as alleged in the amended pleadings of the Class Members.

6. Exhibits 1,2,3 and 4 at pages 6 to 12 of the Class Members brief (which is filed under seal) set forth the alleged conduct of OFI which forms the basis for the lawsuit. OFI stated that it intends to Offer evidence on the Fifth, Tenth, Twenty-Second, Thirteenth, and Twenty First Affirmative Defenses to reduce the damages OFI is required to pay based upon comparative fault.

7. To the extent that a party defendant seeks to have the benefit of comparative fault as an affirmative defense, it bears the burden of proof by a preponderance of the evidence that the other party's fault was a cause-in-fact of the damage being complained about. *Amedee v. Aimbridge Hosp. LLC*, 2021-01906 (La. 10/21/22), 351 So. 3d 321, 333; *Hankton v. State*, 2020-00462 (La. 12/1/20), 315 So.3d 1278, 1284; *Dupree v. City of New Orleans*, 1999-3651, p. 18 n.13 (La. 8/31/00), 765 So.2d 1002, 1014).

8. OFI is hereby ordered to produce all documents relating to the subjects of their First, Fifth, Tenth, Twenty-Second, Thirteenth, and Twenty First Affirmative Defenses and /or Exhibit 1,2,3, and 4 of the Class Members Memorandum. This shall include evidence which supports or contradicts their affirmative defenses based upon the scope of production meeting the standards of LSA-C.C.P. Art. 1422.

9. Based upon the evidence introduced at the hearing in the form of Exhibits A-J, OFI's First, Fifth, Tenth, Twenty-Second, Thirteenth, and Twenty-First Affirmative Defenses, and /or Exhibit 1,2,3, and 4 as described in the Class Members Memorandum that was introduced into evidence at the hearing, the Class Members have satisfied its evidentiary burden of showing good cause pursuant to LSA-R.S 6:109(H) for the production of the documents relevant to the Affirmative Defenses including comparative fault.

10. The legal standard of "good cause" "substantial need" and "specificity" of the description of each document set forth in La. R.S. 6:103(H)(2) and (4) are satisfied, as a matter of law, when the evidence is required to contradict the Affirmative Defenses plead by OFI. No case law supports the position of OFI that they are unilaterally entitled to assert affirmative defenses to reduce all or a portion of their damages, yet not required to produce the relevant documents in accordance with the discovery standards of La. C.C.P. art. 1422 based upon La. R.S. 6:103(H)(2) and (4).

READ, RENDERED, AND SIGNED this 11th day of June, 2024.



HONORABLE DONALD B. JOHNSON
CHIEF JUDGE 19th JUDICIAL DISTRICT

PLEASE SERVE NOTICE ON ALL PARTIES.