

# Ex-Girardi Keese attorneys want complaint against them dismissed

By Craig Anderson  
Daily Journal Staff Writer

Two former attorneys at Girardi Keese are seeking to dismiss a complaint holding them responsible for withholding funds from former clients whose family members died in a plane crash, arguing that a federal court in Illinois does not have jurisdiction over them.

Prominent plaintiffs' attorney Thomas V. Girardi's son-in-law, David R. Lira, and Keith D. Griffin, have filed motions seeking dismissal of a complaint filed against them by co-counsel in a major lawsuit arguing the Illinois district court lacks jurisdiction.

"This case doesn't belong in Illinois," said Ryan D. Saba, a partner with Beverly Hills-based Rosen Saba LLP who represents Griffin.

"All of the alleged wrongful acts took place in California," Saba said in a telephone call Wednesday.

The underlying dispute revolves around the failure of Girardi's firm to pay plaintiffs — relatives of passengers on board a Boeing Co. jet that crashed in Indonesia — and co-counsel at Edelson PC all the money owed following a settlement.

Edelson sued the firm, Girardi, his wife, Erika Jayne, Lira, Griffin, and other defendants to recover the money. *Edelson PC v. Girardi et al.*, 20-CV07115 (N.D. Ill., filed Dec. 2, 2020).

The claims against Girardi and his firm have been stayed because both are in Chapter 7 proceedings in the Central District of California. *In re: Thomas Vincent Girardi*, 20-BK21020 (C.D. Bankruptcy Ct, filed Dec. 18, 2020); *In re: Girardi Keese*, 20-BK21022 (C.D. Bankruptcy Ct, filed Dec. 18, 2020).

On Tuesday afternoon, U.S. Bankruptcy Judge Barry Russell in Los Angeles denied a motion by Girardi's brother, Robert Girardi, to act as guardian ad litem for the firm.

Russell ruled a guardian "cannot be appointed for the entity debtor under Federal Rule of Bankruptcy Procedure 1004.1."

Lei Lei Wang Ekvall, a partner with Smiley Wang-Ekvall LLP who represents Elissa D. Miller of SulmeyerKupetz APC, the trustee han-

dling the bankruptcy of the firm, argued in court papers federal law does not allow a guardian for an entity.

Leonard Pena, a partner with Pena & Soma APC who represents Robert Girardi, did not return a message seeking comment.

Robert Girardi wrote in a declaration that his brother was having short-term memory problems and "is not capable of making rational decisions with respect to his financial responsibilities and offers solutions and opinions that are factually impossible."

But Rafey S. Balabanian, Edelson's managing partner, wrote in a Jan. 19 declaration that Thomas Girardi was in fact "engaged in a sophisticated scheme" to use client funds for improper purposes.

"He regularly demonstrated a command of the facts, and when we inquired about when our clients would receive their settlement monies, he regularly provided enough assurances to convince us that more drastic action was unnecessary, but remained general enough to avoid committing himself to any course of action," Balabanian wrote.

"I take from these conversations that Mr. Girardi was well aware of what he was doing, and that it was wrong," Balabanian added.

Lira and Griffin both argued they were only salaried employees at Girardi Keese and had no control over the firm's ability to pay the plaintiffs. The firm was a sole proprietorship of Thomas Girardi, their attorneys wrote.

Christopher T. Sheean, an attorney with Swanson, Martin & Bell LLP who represents Lira, wrote his client had no control of the books and records of Girardi Keese or those of Girardi himself.

The bankruptcy trustees have that information, he wrote. Sheean added that any surviving claims against Lira should be stayed until the Girardi and law firm bankruptcies are resolved.

Edelson is seeking its portion of attorney fees, according to a status report filed Tuesday, and damages for conversion and breach of contract.

[craig\\_anderson@dailyjournal.com](mailto:craig_anderson@dailyjournal.com)