



ORIGINAL

NOT FOR OFFICIAL PUBLICATION
See Okla.Sup.Ct.R. 1.200 before citing.

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION II

FILED
COURT OF CIVIL APPEALS
STATE OF OKLAHOMA

OCT 22 2025

SELDEN JONES
CLERK

Case No. 122,244
(Companion with
Case No. 121,520)

RIVERBEND KING, LLC, and)
JAMES FLOWERS,)
)
Plaintiffs/Appellants,)
)
vs.)
)
RYAN MEDLEY, CHASE MATTISON,)
NATHAN MATTISON, and LOKAL)
FARMS GROUP, LLC,)
)
Defendants/Appellees,)
)
and)
)
ROBERT BUD SCOTT and)
RIVERBEND 1100 ROAD)
FARMS, LLC,)
)
Defendants.)

Rec'd (date)	10-22-25
Posted	
Mailed	
Distrib	
Publish	yes ☒ no

APPEAL FROM THE DISTRICT COURT OF
SEMINOLE COUNTY, OKLAHOMA

HONORABLE TIMOTHY L. OLSEN, TRIAL JUDGE

**AFFIRMED IN PART, REVERSED IN PART, AND REMANDED FOR
FURTHER PROCEEDINGS**

Kirk A. Marshall
KIRK MARSHALL, PLLC
Yukon, Oklahoma

For Plaintiffs/Appellants

Kevin Combs
James Thiessen
COMBS THIESSEN PLLC
Oklahoma City, Oklahoma

For Defendants/Appellees

OPINION BY JANE P. WISEMAN, PRESIDING JUDGE:

After a trial, the trial court entered judgment in favor of Plaintiffs Riverbend King, LLC, and James Flowers and against Lokal Farms Group, LLC, for \$72,600.

Plaintiffs appeal from the following pretrial decisions of the trial court:

- (1) dismissing Plaintiffs' claims for alter ego and negligence *per se* against Ryan Medley, Chase Mattison, and Nathan Mattison (Individual Defendants);
- (2) granting summary judgment in favor of Individual Defendants on Plaintiffs' breach of contract, conversion, deceit, and accounting claims, and (3) imposing sanctions against Plaintiffs.

After review, we conclude the trial court erred in dismissing the alter ego and negligence *per se* claims against Individual Defendants without following 12 O.S.2021 § 2012(G), but did not err in granting summary judgment on the remaining claims or in awarding sanctions. The trial court's order is therefore affirmed in part, reversed in part, and remanded for further proceedings consistent with this Opinion.¹

¹ We deny Defendants' motion to dismiss this appeal.

FACTS AND PROCEDURAL HISTORY

Plaintiffs Riverbend King, LLC, and James Flowers sued Robert Bud Scott,² Ryan Medley, Chase Mattison, Nathan Mattison, Lokal Farms Group, LLC, and Riverbend 1100 Road Farms, LLC,³ alleging multiple claims arising from an alleged breach of an agricultural partnership agreement to grow medical marijuana.

After numerous pretrial decisions and a bench trial, the trial court found in favor of Riverbend on its breach of contract claim and awarded it a judgment of \$72,600 against Lokal. The trial court found that Lokal breached the Agricultural Partnership Agreement it had with Riverbend and held that, pursuant to the terms of the Agreement, Riverbend is entitled to the full amount of lease payments for the five-year contract period, with \$15,000 due for each year.

Plaintiffs, however, do not appeal from the trial court's final order but from numerous pre-trial decisions by the trial court. Early in the proceedings, Individual Defendants asked the trial court to dismiss them from the lawsuit because the lawsuit, they asserted, involved a contract between one limited liability company and another and there were no individual parties to the contract.

Defendant Robert Scott also filed a motion to dismiss alleging, among other

² The trial court in its Decision filed April 12, 2024, granted Plaintiffs' default judgment against Robert Scott. He is not a party to this appeal.

³ Riverbend 1100 Road Farms, LLC, is not a party to this appeal. Chase Mattison and Nathan Mattison were originally referred to in the petition as Chase Madsen and Nathan Madsen.

things, that the contract was between two limited liability companies, that he did not sign or guaranty the contract, and that the alter ego claims fail pursuant to 12 O.S. § 682(B).⁴ On March 4, 2022, the trial court granted Scott’s motion to dismiss Plaintiffs’ alter ego claims “[b]ased on the specific language of 12 O.S. § 682.”

On December 21, 2022, Individual Defendants asked the court to adopt its March 4, 2022 ruling as to them. They alleged the “Agricultural Partnership Agreement” was between two LLCs—Lokal and Riverbend—and “[n]o individuals are parties to the alleged agreement.” Individual Defendants claim that Plaintiffs sued Lokal and four individuals—Scott and Individual Defendants—and that the trial court had previously dismissed the alter ego claims against Scott. Individual Defendants “move[d] for an order applying [the trial] Court’s rulings as to Robert Scott in its March 4, 2022 ‘Summary Order’ to them as individuals.”

⁴ Title 12 O.S.2021 § 682(B) provides:

No suit or claim of any nature shall be brought against any officer, director or shareholder for the debt or liability of a corporation of which he or she is an officer, director or shareholder, until judgment is obtained therefor against the corporation and execution thereon returned unsatisfied. This provision includes, but is not limited to, claims based on vicarious liability and alter ego. *Provided, nothing herein prohibits a suit or claim against an officer, director or shareholder for their own conduct, act or contractual obligation, not within the scope of their role as an officer, director or shareholder, arising out of or in connection with their direct involvement in the same or related transaction or occurrence.*

(Emphasis added.)

In their response, Plaintiffs point out that the trial court denied Individual Defendants' June 18, 2021 motion to dismiss on December 20, 2021, seeking to dismiss the alter ego claims. However, when Individual Defendants filed that motion to dismiss, the trial court concluded they had not been properly served.

In an order filed on May 8, 2023, the trial court granted Individual Defendants' motion to dismiss as to the alter ego and negligence *per se* claims. The trial court denied the motion as to Plaintiffs' breach of oral contract, conversion, deceit, and tort claims.

Individual Defendants also filed a motion for summary judgment alleging the following facts summarized and quoted below as material and undisputed. The trial court had previously dismissed Plaintiffs' alter ego claims against Individual Defendants and the only claims remaining against them were "for breach of oral contract, conversion, deceit, and tort." Riverbend King, LLC, had no agreement with Ryan Medley, Chase Mattison, or Nathan Mattison. None of these Individual Defendants "kill[ed] James Flowers's cow, [Riverbend's] cow, anyone's cow, and did not instruct anyone to kill anyone's cow." None of these Individual Defendants "made any material representation to James Flowers or [Riverbend] which was false at any time." They also did not have any agreement with Flowers or Riverbend. Individual Defendants also stated they were incorporating by reference Lokal's undisputed facts asserted in its motion for summary judgment.

Plaintiffs did not dispute that the alter ego claims against the Individual Defendants had been dismissed. But they do dispute that only the “breach of oral contract, conversion, deceit, and tort claims” remain against Individual Defendants because their accounting claim also remained.

Plaintiffs dispute that none of the Individual Defendants had an agreement with Riverbend. They claim that “the written contract is not valid due to Scott signing it as Lokal Farms Group, LLC’s managing member without that authority, the written contract is evidence of some of the terms that the parties orally agreed to.” Plaintiffs contend Individual Defendants made oral promises to Flowers and those oral promises included Ryan Medley telling Flowers that he was going to make Flowers a rich man in order to persuade Flowers to allow Defendants to grow medical marijuana on Flowers’ land. Flowers claims all money paid to him was paid by Individual Defendants. Plaintiffs assert Individual Defendants promised to employ Flowers, pay him to grow medical marijuana on all their land, and provide him and his wife with health insurance. Plaintiffs do not dispute that Individual Defendants did not kill or instruct anyone to kill Flowers’ cow.

Plaintiffs dispute that none of the Individual Defendants made false material representations to Flowers and dispute that none of the Individual Defendants had any agreement with Plaintiffs.

After considering Individual Defendants’ and Lokal’s motions for summary

judgment, the trial court found Individual Defendants and Lokal were entitled to summary judgment on Plaintiffs' claims for breach of oral contract, fraud/deceit, and conversion. The trial court denied Lokal's request for summary judgment on Plaintiffs' breach of contract claim as to the Agricultural Partnership Agreement—this breach of contract claim is the sole issue later decided at the bench trial. The trial court also found that Plaintiffs did not have a separate claim for equitable accounting because they had an adequate remedy at law.

After a non-jury trial, the court ultimately found in favor of Riverbend on its breach of contract claim against Lokal and entered a judgment in favor of Riverbend and against Lokal for \$72,600. This judgment resolved all remaining issues among the parties, making the earlier orders appealable.

Plaintiffs appeal the trial court's pretrial decisions.

STANDARD OF REVIEW

"We review the district court's dismissal of an action *de novo*." *Spencer v. Nelson*, 2024 OK 63, ¶ 9, 557 P.3d 144. We also review a trial court's decision on summary judgment *de novo*. See *Tiger v. Verdigris Valley Elec. Coop.*, 2016 OK 74, ¶ 13, 410 P.3d 1007. We will examine the evidentiary materials "to determine what facts are material and whether there is a substantial controversy as to any material fact." *Id.* "[A]ll inferences and conclusions to be drawn from the

evidentiary materials must be viewed in the light most favorable to the non-moving party.” *Carmichael v. Beller*, 1996 OK 48, ¶ 2, 914 P.2d 1051.

“Because the trial court has the limited role of determining whether there are such issues of fact, it may not determine fact issues on a motion for summary judgment nor may it weigh the evidence.” *Tiger*, 2016 OK 74, ¶ 13. “Summary judgment is proper only if the record reveals uncontroverted material facts failing to support any legitimate inference in favor of the nonmoving party.” *Id.*

ANALYSIS

Plaintiffs challenge the following trial court decisions: (1) the dismissal of their alter ego and negligence *per se* claims against Individual Defendants; (2) the grant of summary judgment on Plaintiffs’ claims for breach of oral contract, fraud/deceit, conversion, and accounting, and (3) the imposition of sanctions against Plaintiffs.

I. Dismissal of Claims against Individual Defendants

Plaintiffs argue on appeal that the trial court erred in dismissing their piercing the corporate veil and negligence *per se* claims without affording them a chance to amend as required by 12 O.S. § 2012(G), which provides in relevant part:

G. FINAL DISMISSAL ON FAILURE TO AMEND. On granting a motion to dismiss a claim for relief, the court shall grant leave to amend if the defect can be remedied and shall specify the time within which

an amended pleading shall be filed. If the amended pleading is not filed within the time allowed, final judgment of dismissal with prejudice shall be entered on motion except in cases of excusable neglect. In such cases amendment shall be made by the party in default within a time specified by the court for filing an amended pleading. Within the time allowed by the court for filing an amended pleading, a plaintiff may voluntarily dismiss the action without prejudice.

12 O.S.2021 § 2012(G). The “[Supreme] Court has interpreted the statute as a mandatory duty placed on trial courts, as long as the defect can be remedied.”

Fanning v. Brown, 2004 OK 7, ¶ 23, 85 P.3d 841.

“The purpose of a motion to dismiss is to test the law that governs the claim, not to examine and reach conclusions about the underlying facts.” *Spencer v. Nelson*, 2024 OK 63, ¶ 9, 557 P.3d 144. A “[c]ourt *must take as true all the allegations* in the challenged pleading together with all reasonable inferences that can be drawn from them.” *Id.* A trial court should only dismiss a claim “when there is no cognizable legal theory to support the claim or there are insufficient facts under a cognizable legal theory.” *Id.*

A trial court should not dismiss a claim “for failure to state a legally cognizable claim unless the allegations indicate beyond any doubt that the litigant can prove no set of facts which would entitle him to relief.” *Frazier v. Bryan Mem’l Hosp. Auth.*, 1989 OK 73, ¶ 13, 775 P.2d 281. “[T]he burden to show the legal insufficiency of the petition is on the party moving for dismissal and a motion

made under 12 O.S.2001, § 2012(B)(6) must separately state each omission or defect in the petition; if it does not, the motion shall be denied without a hearing.”

Fanning, 2004 OK 7, ¶ 4. Also, “Motions to dismiss are usually viewed with disfavor under this liberal standard.” *Id.*

Plaintiffs maintain that they should have been given the opportunity to amend their alter ego/piercing the corporate veil and negligence *per se* claims. The *Fanning* decision also involved a piercing the corporate veil claim. The Court instructed:

Generally, a corporation is regarded as a legal entity, separate and distinct from the individuals comprising it. *Buckner v. Dillard*[], 1939 OK 144, ¶ 21, 89 P.2d 326, 328. However, the notion of a corporation’s legal entity, apart from the persons composing it, is introduced for convenience and to serve the ends of justice. *Mid-Continent Life Ins. Co. v. Goforth*, 1943 OK 244, ¶ 10, 143 P.2d 154, 156. Accordingly, Oklahoma has long recognized the doctrine of disregarding the corporate entity in certain circumstances. Courts may disregard the corporate entity and hold stockholders personally liable for corporate obligations or corporate conduct under the legal doctrines of fraud, alter ego and when necessary to protect the rights of third persons and accomplish justice. *See Goforth*, 143 P.2d at 156 (courts may disregard [] the legal fiction that bestows on a corporation an existence separate and distinct from its stockholders when necessary to protect the interests of the public, circumvent fraud and protect the rights of third persons or accomplish justice); *Frazier v. Bryan Memorial Hosp. Authority*, 1989 OK 73, ¶ 16, 775 P.2d 281, 288 (if one corporation is simply the instrumentality of another

corporation, the separation between the two may be disregarded and treated as one).

Id. ¶ 16.

Plaintiff Fanning sought to hold shareholders individually liable for acts of the corporation. *Id.* ¶ 17. The trial court dismissed the case after the “[s]hareholders moved to dismiss simply stating the general rule that a shareholder is a separate entity that cannot be liable for the negligent acts of the corporation.” *Id.*

¶ 18.

The Supreme Court concluded that pursuant to 12 O.S. § 2012(G), “Even if the allegations in Fanning’s petition were not sufficient to withstand a motion to dismiss, the trial court still erred in dismissing the case without providing Fanning with an opportunity to amend her complaint.” *Id.* ¶ 23. “In order for the courts to dismiss a claim for failure to state a cause of action without giving the plaintiff the opportunity to amend, it must appear that the claim does not exist rather than the claim has been defectively stated.” *Id.*

The trial court’s dismissal here of Plaintiffs’ alter ego and negligence *per se* claims does not provide Plaintiffs with leave to amend. In *Fanning*, the Court concluded that “since Fanning pled a cognizable legal theory, i.e., piercing the corporate veil, the judgment does not contain a statement that no amendment of the petition could cure the defects in Fanning’s petition.” *Id.* ¶ 24. The Supreme Court instructed, “If the trial court was of the opinion that the claim was

defectively pled, it should have provided Fanning with an opportunity to amend.

Accordingly, the trial court erred in dismissing Fanning's petition." *Id.*

Applying the holding of *Fanning*, we conclude the trial court erred in dismissing Plaintiffs' alter ego and negligence *per se* claims without providing an opportunity to amend. We remand to the trial court to consider these two claims pursuant to § 2012(G) in conformance with this Opinion.

II. Summary Judgment

Plaintiffs assert trial court error in granting summary judgment to Individual Defendants on their claims of breach of oral contract, conversion, deceit, and accounting.

A. Breach of Oral Contract

Plaintiffs contend in their brief-in-chief that "[o]ral contracts were made between Flowers and the individual Defendants before and after they entered into the written Agricultural Partnership Agreement." They contend Individual Defendants made oral promises of numerous benefits to get Flowers to perform the Agreement and Flowers maintains he relied on the oral promises when he entered into the Agreement. Plaintiffs claim Scott told Flowers he would pay him \$5,000 a month in salary, Medley promised Flowers and three of his family members that he would provide them with medical insurance, and Medley told Flowers he would make Flowers rich.

Title 15 O.S.2021 § 137 provides, “The execution of a contract in writing, whether the law requires it to be written or not, supersedes all the oral negotiations or stipulations concerning its matter, which preceded or accompanied the execution of the instrument.”

The Agreement specifically addresses the issue of compensation and states that Lokal “agrees to compensate the managing member, James Flowers . . . for the value of his time and labor spent on the property subject to this Agreement at a rate agreed upon by the parties, but at no time exceeding the fair market rate for the actual services or activity conducted.” The Agreement further states that Flowers must submit time sheets. The Agreement clearly addresses payment by Lokal of compensation for Flowers’ time and labor. Any agreement by Flowers and Scott regarding compensation before Flowers entered into the Agreement would, pursuant to § 137, merge into the Agreement. This also applies to the alleged promise to provide health insurance and to make Flowers a rich man. All three alleged promises involve some sort of compensation, which was addressed in the Agreement.

The Agreement further provides, “That this Agreement, in addition to the Operating Agreement for the Joint Venture, reflects the entirety of the Agreement between the Parties and shall only be amended or modified in writing upon agreement of the Parties.” Based on the Agreement’s express terms, we conclude

the trial court did not err in granting summary judgment to Individual Defendants on the issue of any oral promises to Flowers regarding compensation. “Parol evidence cannot vary, modify or contradict the terms of the instrument.” *Ollie v. Rainbolt*, 1983 OK 79, ¶ 12, 669 P.2d 275. Because the written Agreement supplants any prior oral agreements, Plaintiffs failed to show any disputed issue of fact arising from prior negotiations because evidence of such negotiations would be inadmissible.

B. Deceit

Plaintiffs assert the trial court erred in granting summary judgment to Individual Defendants on their claim of deceit. Title 76 O.S.2021 § 3 provides:

A deceit, within the meaning of the last section, is either:

1. The suggestion, as a fact, of that which is not true by one who does not believe it to be true.
2. The assertion, as a fact, of that which is not true, by one who has no reasonable ground for believing it to be true.
3. The suppression of a fact by one who is bound to disclose it, or who gives information of other facts which are likely to mislead for want of communication of that fact; or,
4. A promise, made without any intention of performing.

(Footnote omitted.)

Plaintiffs in their brief-in-chief argue that Defendants disputed none of the allegations of deceit in their petition. They rely on the assertions in their petition

regarding deceit, including claims about a medical marijuana license, a promise to provide health insurance, a promise to make Flowers rich, a promise to pay Flowers a \$5,000 a month salary, and other alleged promises.

Plaintiffs' assertions that Individual Defendants did not dispute the allegations in their petition is unavailing because allegations in Plaintiffs' petition are not controlling for purposes of summary judgment procedure. Pursuant to Rule 13 of the Rules for District Courts, 12 O.S.2021, ch. 2, app., governing the procedure for summary judgment motions, when a party moves for summary judgment, its motion must "be accompanied by a concise written statement of the material facts as to which the movant contends no genuine issue exists and a statement of argument and authority demonstrating that summary judgment or summary disposition of any issues should be granted." Rule 13(a). The party must refer to evidentiary material relied on and provide a copy of those materials. *Id.*

Rule 13(b) provides that the party opposing the motion must file in response "a concise written statement of the material facts as to which a genuine issue exists and the reasons for denying the motion." *Id.* The party must also "attach to, or file with, the statement evidentiary material justifying the opposition to the motion." *Id.* "All material facts set forth in the statement of the movant which are supported by acceptable evidentiary material shall be deemed admitted for the purpose of summary judgment or summary disposition unless specifically controverted by the

statement of the adverse party which is supported by acceptable evidentiary material.” *Id.* “If the motion for summary judgment or summary disposition is granted, the party or parties opposing the motion cannot on appeal rely on any fact or material that is not referred to or included in the statement in order to show that a substantial controversy exists.” *Id.*

This is not a question of Defendants disputing the allegations in Plaintiffs’ petition. Once Defendants filed their motions for summary judgment, it was incumbent on Plaintiffs to dispute with acceptable evidentiary material Defendants’ properly supported statements of fact.

Individual Defendants in their statements of undisputed facts in their motion for summary judgment state they never made any material misrepresentations to Flowers or Riverbend and cite a deposition and affidavits in support of their statements of fact. Plaintiffs, in contrast, do not directly cite any evidentiary materials in their response. Instead, they make only general statements and refer to another response. In that previous response, Plaintiffs claim, among other things, that the written contract between Riverbend and Lokal is not valid. The trial court ultimately found Lokal breached that contract and awarded Riverbend the full amount due pursuant to the Agreement.

One impediment in reviewing Plaintiffs’ claims from their summary judgment motion is that Plaintiffs obtained a judgment against Lokal based on the

written agreement between Riverbend and Lokal. We do not know what evidence was introduced at trial as no trial transcripts were included in the record on appeal. Plaintiffs as appellants bear full responsibility for including in the appellate record all materials necessary to obtain corrective relief and to ensure that such materials are provided to the reviewing court. *See State v. Price*, 2012 OK 51, n.7, 280 P.3d 943. If the record is silent, we adhere to the presumption that a trial court's decision is correct and that "every fact not disputed by the record must be regarded as supporting the trial court's judgment." *Id.* We are unable to determine if the damages Plaintiffs sought to recover from Individual Defendants were in addition to their successful breach of contract claim against Lokal. Having concluded that any oral negotiations or promises were superseded by the written Agreement, and Plaintiffs prevailed on their breach of contract claim against Lokal, we can find no error in granting summary judgment to Individual Defendants.

C. Conversion

Plaintiffs assert the trial court improperly granted summary judgment to Defendants on their conversion claim. Plaintiffs cite OUJI 27.1, which provides:

Conversion is an unauthorized assumption and exercise of the right of ownership over the personal property of another person that is inconsistent with the rights of the owner. [Plaintiff] is required to prove by the greater weight of the evidence the following in order to recover on the claim for conversion against [Defendant]:

1. [Plaintiff] (was the owner of)/possessed/(had the right to possess) the [Specify Property];

2. [Defendant] intentionally (took possession of)/(prevented [Plaintiff] from having access to)/destroyed the [Specify Property];
3. [Plaintiff] did not consent; and
4. [Plaintiff] was harmed as a result of the conduct of [Defendant].

Plaintiffs assert “that the individual Defendants converted at least 32 of the 42 totes of product that Flowers produced from his land during the 2019 growing season, which Plaintiffs were entitled to be paid for as 20% of the net revenue Defendants earned from the medical marijuana sold from Flowers[’] production from his land each year.” Plaintiffs cite their petition in support of this statement. They assert that Scott sold ten of the totes for an unknown amount.

“Conversion is any act of dominion wrongfully exerted over another’s personal property in denial of or inconsistent with his rights therein.” *Steenbergen v. First Fed. Sav. & Loan of Chickasha*, 1987 OK 122, ¶ 9, 753 P.2d 1330.

Although Plaintiffs assert that Individual Defendants converted their property, on appeal they assert Scott sold some of the marijuana for an unknown amount. It is not ascertainable by this Court whether the marijuana Plaintiffs contend was part of their conversion claim was in any way covered or considered in the damages ultimately awarded to Plaintiffs.

The Agreement covers 150 acres owned by Riverbend, referred to as Partner, which was to be used for five years beginning in 2019 to plant and harvest “agricultural product.” The Agreement provides that Partner will receive \$100 per

acre or a percentage of the net value “of the agricultural product successfully planted, maintained, harvested and sold on the open market.” The Agreement also provides for compensation for Flowers.

After trial, the trial court found, “Riverbend, through Flowers did plant and harvest a crop of ‘hemp’ on 15 acres that is subject to the Agricultural Partnership Agreement. The hemp was harvested in October 2019. Said crop was turned over to Lokal and eventually sold and disposed of.”

The court found that Lokal paid Flowers \$2,700 in May and July of 2020 “for what it believed was owed to Riverbend” pursuant to the Agreement after the product was sold.

The trial court found:

[T]hat the terms of the Agricultural Partnership Agreement are unambiguous as it relates to the calculation of lease payments set forth in Paragraph #7. As stated, “the Partner shall receive the greater option of either one hundred dollars (\$100.00) per acre (hereinafter referred to as “**Lease Rate**”) subject to this Agreement OR the Partner’s percentage of the net value (hereinafter referred to as “Partner Value”) of the agricultural product successfully planted, maintained, harvested, and sold on the open market grown on the property subject to this Agreement.” It is clear that when the agreement was executed that 150 acres was subject to the agreement.

The court concluded that from the plain terms of the contract, “Riverbend was to receive its share of the net value of the crop harvested and sold from its land

or \$100 per acre x 150 acres = \$15,000, whichever is higher.” The court found Lokai breached the Agreement by not paying Riverbend \$15,000 for the 2019 growing season and that “Lokai did not plant or harvest another agricultural crop on Flowers’ property after the 2019 crop was harvested.” The court found that the Agreement required Riverbend to provide access to the 150 acres to the members of the joint venture for five years and that the Agreement provided “that Lokai owed Riverbend the lease rate payment each year whether it utilized the property or not. A different interpretation is not logical.” The court concluded Lokai owed Riverbend \$15,000 for lease payments for four years, totaling \$60,000. The court, however, found that there was not a five-year employment agreement for Flowers, and concluded that Flowers had been compensated for his time and labor. The trial court also found that Lokai owed \$300 for completion of a water well.

The trial court found Lokai owed \$75,000 for lease payments for the five-year lease term pursuant to the Agreement and \$300 for completion of a water well for a total of \$75,300. Lokai previously paid Riverbend \$2,700. The trial court granted judgment in favor of Riverbend and against Lokai for \$72,600. The trial court’s decision regarding the amount owed by Lokai for 2019 was that the \$15,000 lease payment was more than the amount Lokai would owe for 20% of the profits for the hemp grown by Flowers.

Even if Scott were involved in converting Plaintiffs’ property, Scott is not

one of the Individual Defendants. Also, the trial court determined Plaintiffs were owed the full amount of the lease because the amount owed pursuant to the lease was more than the amount owed for the product sold. Plaintiffs have failed to delineate to this Court what, if any, additional damages they sustained for any of the claims adjudicated on summary judgment, and this Court, therefore, cannot offer them relief.

D. Accounting

Plaintiffs assert that the trial court erred in granting summary judgment on their accounting claim. The court determined that Plaintiffs' claim for accounting needed to be addressed at the trial of the breach of contract claims because the Agreement contained a provision that might allow Plaintiffs to obtain an accounting. The trial court did not at that time determine that an accounting could not be had, but that it would be addressed in conjunction with the trial.

Plaintiffs fail to point this Court to the location in the record where they attempted to address the accounting issue within the context of the trial but were denied that opportunity. Without citation to the record on this question, we decline to find trial court error. "When error is not shown, or its presence cannot be ascertained from an incomplete, deficient or equivocal record, an appellate court *must always yield* to the law's presumption that the trial court's decision is legally correct." *Reeves v. Agee*, 1989 OK 25, n.19, 769 P.2d 745 (emphasis added).

Again, the trial court compensated Plaintiffs for damages pursuant to the contract finding that the \$15,000 lease amount was more than the amount that would have been due from the sale of the product. Plaintiffs failed to show reversible error based on the court's denial of their accounting claim.

III. Sanctions

Plaintiffs ask in their brief in chief to “incorporate by reference the Brief in Chief, and Reply Brief, of Case No. 121520 (cons. w/ 121521) for this Court’s consideration and application to Flowers, rather than Flowers reproducing that Brief in Chief, and Reply, herein on behalf of himself.”

Oklahoma Supreme Court Rule 1.11(b), 12 O.S. Supp. 2024, ch. 15, app 1, provides: “A Brief-in-chief, Answer Brief, or Reply Brief which is not combined with another brief shall not exceed thirty (30) pages.” Plaintiffs urge this Court to consider, in addition to their 25-page brief in chief, the briefs from the previous appeal. The brief in chief for that appeal was 28 pages and the reply brief was 27 pages. In *Mazzio’s Corp. v. Bright*, 2002 OK CIV APP 45, ¶¶ 18-21, 46 P.3d 201, this Court struck portions of an appellate brief after the appellant attempted to support propositions of error by asking this Court to incorporate argument and authority from other sources. The Court stated, “We will not condone this attempt to circumvent the page limit for briefs set forth in Rule 1.11(b).” *Id.* ¶ 20.

Even if we considered the argument and authorities from the previous appeal, we would conclude the sanction orders should be affirmed. Plaintiffs have not shown why the decision in the previous appeal should not be applied here, why our decision regarding their attorney Kirk Marshall's appeal does not also apply to Plaintiffs, or why Plaintiffs were not included in the previous appeal regarding sanctions. We also note that on April 28, 2025, the Supreme Court denied Kirk A. Marshall's Petition for Certiorari in the previous appeals.

CONCLUSION

After review, we conclude it was error as a matter of law to dismiss Plaintiffs' alter ego and negligence *per se* claims without giving them leave to amend. We affirm the trial court's grant of summary judgment on Plaintiffs' breach of oral contract, fraud/deceit, conversion, and accounting claims. We also affirm the trial court's imposition of sanctions.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED FOR FURTHER PROCEEDINGS.

FISCHER, J., concurs, and BLACKWELL, J., concurs in part and dissents in part.

BLACKWELL, J., concurring in part and dissenting in part:

I concur in all of the Court's opinion except that portion reversing and remanding pursuant to 12 O.S. § 2012(G). Nothing in this record indicates that the

appellants ever requested to amend their petition in the face of the motion to dismiss. They simply argued that the motion should be denied. Such is their right, but they should not be permitted to argue for the first time on appeal that they were denied an opportunity to amend. Absent a request, we should apply our default appellate rule—correctly applied later in the Court’s opinion—that “[i]f the record is silent, we adhere to the presumption that a trial court’s decision is correct and that ‘every fact not disputed by the record must be regarded as supporting the trial court’s judgment.’” *Majority Opinion*, pg. 17 (quoting *State v. Price*, 2012 OK 51, n.7, 280 P.3d 943).

Here, the record is silent on whether any request to amend was made.⁵ As such, we must presume that there was no request, or that if there was a request, the trial court determined that the amendment would be futile. Under the majority’s rule, no party could ever seek review of an order granting a motion to dismiss that does not specifically state that the amendment would be futile, even if the party defending the motion desired to rest on his or her pleadings, believing them to be legally adequate. I do not believe this to be the law.

⁵ As noted, no such request was made in the response to the motion to dismiss. ROA 503-07. Apparently, a hearing was held, but no party included a transcript of this hearing, if one was made, in the record on appeal. Thus, it cannot be determined if the appellant sought leave to amend at the hearing.

Finally, I note that *Fanning v. Brown*, 2004 OK 7, 85 P.3d 841, does not compel reversal. In that case, the Supreme Court stated in *dicta*, having already determined that the trial court's dismissal was legally incorrect and warranted reversal, that "[e]ven if the allegations in Fanning's petition were not sufficient to withstand a motion to dismiss, the trial court still erred in dismissing the case without providing Fanning with an opportunity to amend her complaint." *Id.*, ¶ 23, 848. The case does not discuss whether the appellant sought leave to amend, and it should not be understood to overturn our longstanding rule that a party must first complain about an error in the district court before it can be raised on appeal. If a party does not request an amendment, they should be understood not to desire an amendment. This Court should not reverse for failing to "grant leave to amend" when no leave was ever sought. 12 O.S. § 2012(G).

For these reasons, I respectfully dissent from the Court's reversal based on 12 O.S. § 2012(G). In all other respects, I concur in the Court's opinion.

October 22, 2025