

FILED

11-18-16

Superior Court of California
County of Tuolumne

BY: [Signature]
Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF TUOLUMNE

SIERRA PARK SERVICES, INC.,

Plaintiff,

vs.

MICHAEL FORD and TRESA FORD,

Defendants.

Case No.: SC19409

SMALL CLAIMS JUDGMENT

This case came on for hearing on November 18, 2016, before the Honorable Kevin M. Seibert, Judge presiding. Plaintiff, Sierra Park Services, Inc., appeared through one of its officers, Michael Lechner. Defendants, Michael Ford and Tresa Ford, appeared on their own behalf. The following facts were elicited at the trial:

1. Plaintiff was organized in an effort to create a vehicle to provide certain amenities to the owners of parcels of real estate within a subdivision consisting of approximately 365 parcels, including road maintenance. Plaintiff was intended, in part, to replace a predecessor entity that had provided many of the same services and amenities to owners within the subdivision.

2. Not all owners within the subdivision have shareholder status or any rights to vote on the assessments and expenditures made by Plaintiff for providing road maintenance, snow removal and provision of other amenities.

3. Plaintiff concedes that it does not have any contractual agreement with Defendants whereby Defendants agreed to pay Plaintiff for any services or expenditures Plaintiff has provided

1 within the subdivision and for which Plaintiff seeks damages here.

2 4. Therefore, Plaintiff seeks to recover damages by virtue of Civil Code § 845. Civil Code
3 § 845 provides in relevant part as follows:

4 “(b) If the easement is owned by more than one person, or is attached to
5 parcels of land under different ownership, the cost of maintaining it in
6 repair shall be shared by each owner of the easement or the owners of the
7 parcels of land, as the case may be, pursuant to the terms of any agreement
8 entered into by the parties for that purpose. In the absence of an
9 agreement, the cost shall be shared proportionately to the use made of the
10 easement by each owner.


11 (c) If any owner refuses to perform, or fails after demand in writing to pay
12 the owner’s proportion of the cost, an action to recover that owner’s share
13 of the cost, or for specific performance or contribution, may be brought by
14 the other owners, either jointly or severally.”

15 It is clear from the plain reading of this statute that Plaintiff has no legal standing
16 to bring an action, because Plaintiff is not an owner of any parcel of real property within
17 the subdivision affected by the private right-of-way or easement. Ownership is a
18 prerequisite for proceeding under Civil Code section 845.

19 Accordingly, Plaintiff shall take nothing, and judgment is entered in Defendants’ favor.

20 IT IS SO ORDERED.

21 Dated: November 18, 2016.

22 
23 KEVIN M. SEIBERT
24 JUDGE OF THE SUPERIOR COURT