

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
20 CVS 10612

NANCY WRIGHT; GREG WRIGHT;
and JODY STANSELL, individually
and as members of LORUSSO
VENTURES, LLC d/b/a
CINCH.SKIRT,

Plaintiffs,

v.

KRISTA LORUSSO, individually and
as a member-manager of LORUSSO
VENTURES, LLC d/b/a
CINCH.SKIRT,

Defendant,

v.

LORUSSO VENTURES, LLC d/b/a
CINCH.SKIRT,

Nominal
Defendant.

**ORDER ON PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

1. Plaintiffs Nancy Wright, Greg Wright, and Jody Stansell have moved for a preliminary injunction. (ECF No. 68.) The motion has been fully briefed, and the Court held a hearing on 9 March 2022 at which all parties were represented by counsel. In the discussion below, the Court assumes knowledge of the facts and arguments.

2. A preliminary injunction is “an extraordinary remedy and will not be lightly granted.” *Travenol Labs., Inc. v. Turner*, 30 N.C. App. 686, 692 (1976). Plaintiffs must demonstrate not only a likelihood of success on the merits but also a likelihood of irreparable harm in the absence of an injunction. *See A.E.P. Indus., Inc. v.*

McClure, 308 N.C. 393, 401 (1983). In addition, Plaintiffs seek, at least in part, a mandatory preliminary injunction, for which an even higher standard applies: the case must be “urgent”; the right must be “clear”; and the injury must be “immediate, pressing, irreparable, and clearly established.” *Auto. Dealer Res., Inc. v. Occidental Life Ins. Co.*, 15 N.C. App. 634, 639 (1972) (citations and quotation marks omitted).

3. After careful consideration, the Court concludes that Plaintiffs have failed to show a likelihood of irreparable harm. A key factor “is the haste with which the moving party seeks injunctive relief.” *Glob. Textile All., Inc. v. TDI Worldwide, LLC*, 2017 NCBC LEXIS 108, at *30 (N.C. Super. Ct. Nov. 21, 2017) (collecting cases); *see also W&W Partners v. Ferrell Land Co.*, 2018 NCBC LEXIS 210, at *10 (N.C. Super. Ct. Mar. 8, 2018) (collecting cases). Here, Plaintiffs learned of the alleged misconduct—including fraudulent misrepresentations, misappropriations of funds, withholding of financial information, and termination of Stansell’s employment—by late 2018 or early 2019. (*See, e.g.*, 2d Am. Compl. ¶¶ 59–61, 76, 88, 90, 92–95, ECF No. 65.) Yet Plaintiffs waited more than a year to threaten legal action, (*see* 2d Am. Compl. ¶¶ 15–19; Br. Supp. Mot. Prelim. Inj. Ex. J, ECF No. 83), and nearly three years to seek injunctive relief, (*see* Mot. Prelim. Inj., ECF No. 68).

4. This lengthy, unexplained delay is impossible to square with Plaintiffs’ present assertion that they face imminent, irreparable harm. Indeed, the Court is left with two possible conclusions: either speedy action by the Court is not needed, or any imminent harm that may occur is the product of Plaintiffs’ own delay. Neither warrants the imposition of extraordinary equitable relief. *See Galaton v. Johnson*,

2011 U.S. Dist. LEXIS 92125, at *8 (E.D.N.C. Aug. 17, 2011) (denying preliminary injunction because the plaintiff “has been aware of the facts forming the basis of his claims for months, yet waited until the fifty-ninth minute of the eleventh hour to seek an extraordinary equitable remedy”).

5. The failure to show irreparable harm is dispositive. Even so, the Court believes it is appropriate to address, briefly, Plaintiffs’ likelihood of success on the merits. The primary basis for Plaintiffs’ motion is a request for an injunction “to enforce their statutory rights of inspection.” (Mot. Prelim. Inj. ¶ 6.) The usual way to enforce inspection rights is through a petition for a writ of mandamus. *See Richardson v. Utili-Serve, LLC*, 2020 NCBC LEXIS 135, at *13–14 (N.C. Super. Ct. Nov. 17, 2020). More fundamentally, though, relief must be sought against the LLC itself, “not the managers or members of the LLC.” *Elhulu v. Alshalabi*, 2021 NCBC LEXIS 95, at *5–6 (N.C. Super. Ct. Oct. 19, 2021) (citing N.C.G.S. § 57D-3-04(a)). Plaintiffs have not asserted their “Accounting” claim against the LLC, (*see* 2d Am. Compl. ¶¶ 219–28), and, in fact, the second amended complaint stresses that “[n]o claim, whether direct or derivative, is stated against [the LLC] as the Nominal Defendant,” (2d Am. Compl. ¶ 117). Plaintiffs have not shown—and could not show—a likelihood of success on a claim asserted against the wrong party.

6. For these reasons, Plaintiffs have failed to carry their burden to show that they are entitled to the extraordinary remedy of a preliminary injunction. Therefore, the Court, in its discretion, **DENIES** Plaintiffs’ motion.

SO ORDERED, this the 10th day of March, 2022.

/s/ Adam M. Conrad
Adam M. Conrad
Special Superior Court Judge
for Complex Business Cases