Filed 9/3/14 Glancairn Ltd. v. First Citizens Bank etc. CA2/5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

GLENCAIRN LIMITED, Plaintiff in Interpleader, v. FIRST CITIZENS BANK & TRUST COMPANY, Defendant, Cross-Defendant, and Appellant; LAKE FOREST ALABAMA, LLC, Defendant, Cross-Complainant, and Respondent.	B247136 (Los Angeles County Super. Ct. No. BC480066)

APPEAL from a judgment of the Superior Court of the County of Los Angeles, Ramona See, Judge. Affirmed.

Frandzel Robins Bloom & Csato, Peter Csato, Hal D. Goldflam, and Brad R. Becker for Defendant, Cross-defendant, and Appellants.

Steckbauer Weinhart, William W. Steckbauer, Sean A. Topp for Defendant, Cross-complainant and Respondent.

INTRODUCTION

Defendant and appellant First Citizens Bank & Trust Company (First Citizens) and cross-defendant and appellant Continental Casualty Company (Continental)[1] appeal from the trial court's orders granting the summary judgment motion filed by defendant and respondent Lake Forest Alabama, LLC (Lake Forest) and denying their cross-motion for summary judgment. According to appellants, the trial court erred, inter alia, when it ruled that First Citizens' predecessor in interest had released and waived, as part of a settlement agreement, any claim against Lake Forest it may have had to certain fire insurance proceeds. Appellants also challenge certain evidentiary rulings made by the trial court, arguing that the rulings were an abuse of discretion.

We hold that the trial court correctly interpreted the express and unambiguous language of the settlement agreement in issue concerning its broad and comprehensive general release of all claims, known and unknown, including any claim against Lake Forest that First Citizens'predecessor may have had to the fire insurance proceeds in issue. We also hold that even assuming that one or more of the trial court's challenged evidentiary rulings was erroneous, appellants have failed to demonstrate how the challenged ruling prejudiced them. We therefore affirm the orders granting Lake Forest's motion for summary judgment and denying appellants' cross-motion, as well as the judgment based thereon.

FACTUAL BACKGROUND

Lake Forest was the record owner of Lake Forest Alabama Apartments, 500 Jackson Street, Daphne, Alabama (subject property), from July 14, 2006, to May 21, 2009. Nonparty National Commercial Ventures, LLC was the sole managing member of

[1] First Citizens and Continental are sometimes collectively referred to as appellants.

Lake Forest and nonparties CVI, LLC and Richard J. Nathan were members of National Commercial Ventures, LLC.

On July 5, 2006, nonparty First Regional Bank—First Citizens' predecessor in interest—received two promissory notes from Lake Forest in exchange for the bank's loan to Lake Forest in the sum of $7,391,000. The two loans were secured by two mortgages on the subject property. Pursuant to the terms of the mortgages, Lake Forest was required to procure and maintain insurance coverage on the subject property that listed First Regional Bank as an additional loss payee under the policy.

In March 2006, Continental issued a commercial property insurance policy to nonparty Commercial Ventures, Inc. Lake Forest was listed by an endorsement to the Continental policy as an additional insured, and the subject property was listed as covered property. In January 2007, Glencairn issued an all risks policy to Commercial Ventures Inc. Lake Forest was listed in an addendum as an affiliated subsidiary, and/or associated company of Commercial Ventures, Inc. and therefore an additional insured under the Glencairn policy, meaning that the subject property was covered by that policy.

In December 2007, the subject property was damaged by a fire. Lake Forest, through its insurance agent, made a claim for the damage to the subject property caused by the fire under the Continental and Glencairn policies. First Regional Bank was notified of the fire and the insurance claims. But, by April 2009, Glencairn and Continental had not made any payment to any insured under their respective policies.

On April 13, 2009, Lake Forest's sole managing member, National Commercial Ventures, LLC and other affiliated entities and persons entered into a written settlement agreement with First Regional Bank. At the time it entered the settlement agreement, First Regional Bank knew the condition of the subject property due to the December 2007 fire and that Lake Forest had tendered claims for the fire damage to Glencairn and Continental. Under the agreement, Lake Forest was to cooperate with First Regional Bank in resorting to the real property security. First Regional Bank was to limit its recovery to that security and was not to seek any deficiency judgment or pursue any guarantor. Lake Forest delivered possession of the subject property to First Regional

Bank after the settlement agreement was executed. In May 2009, First Regional Bank foreclosed on the mortgages and acquired title to the property pursuant to a foreclosure deed. First Regional Bank's credit bid was less than the indebtedness under the loans, leaving a deficiency of over $2 million.

In January 2010, First Regional Bank was seized and closed by the Federal Deposit Insurance Corporation (FDIC). At that time, First Regional Bank held legal title to the subject property. In January 2010, First Citizens purchased and acquired the majority of the assets of First Regional Bank. As a result, First Citizens was a successor as to the assets First Regional Bank then had.

In 2011, Glencairn and Continental adjusted the damage claims from the December 2007 fire. The insurers determined that the total amount of the loss was approximately $416,477.00 and that Glencairn's share of the loss was 75% or $312,358.56[2] and Continental's share was 25% or $104,118.72.

The first paragraph of the 2009 settlement agreement states, inter alia, that the agreement was "intended as a settlement of all claims between the parties hereto existing as of the date of execution of this agreement . . . ." In the recitals, the settlement agreement provided as follows: "WHEREAS, BANK made an unsecured loan to BORROWERS in the principal amount of $24,220,912.10, evidenced by a promissory note, dated June 26, 2008, loan number 77135139, hereinafter the 'subject loan'; and [¶] WHEREAS, BANK also loaned money to HOWE ARDEN BUSINESS PARK LCC; LAKE FOREST ALABAMA, LLC; and CVI PINE GARDEN APARTMENTS, LLC (collectively the 'LLC's'); which various loans to the LLC's have been guaranteed by RICHARD J. NATHAN, (collectively the 'RJN Guaranties) are secured by mortgages or deeds of trust on real property owned by the LLC's, and are hereinafter collectively referred to as the 'guaranteed secured loans;' and [¶] WHEREAS, the parties hereto

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[2] Glencairn's complaint in interpleader stated the amount of its share of the loss as $312,256.18. But in their response to Lake Forest's separate statement, appellants explain that a notice of errata to the complaint in interpleader stated the correct amount as $312,358.56. The notice of errata is not part of the record.

desire to settle all of their mutual claims, disputes, and obligations, including but not limited to all claims, obligations, liabilities and disputes which arose out of the subject loan, the RJN Guaranties and the guaranteed secured loans, which settled items are all hereinafter referred to as the 'released matters.'"

In paragraph 6 of the settlement agreement, the parties described the scope of their mutual release of claims as follows: "Release. Except with respect to the obligations created by, or incorporated by reference into this Agreement, and subject to the provisions of Paragraph 8 below as to the BORROWERS, BANK on the one hand, and their related parties, as herein defined, and BORROWERS, on the other hand, and its related parties as herein defined, release absolutely, and forever discharge each other and each other's respective related parties, as herein defined, of and from any and all claims, demands, damages, debts, liabilities, accounts, reckonings, obligations, costs, expenses, liens, actions and causes of action of every kind or nature within the scope of the released matters, whether now known or unknown suspected or unsuspected, which each of them now has, owns or holds, or at any time heretofore ever had, owned, or held, could, shall, or may hereinafter have, own or hold, against the other, including but not limited to those claims arising from or relating to the subject loan, the guaranteed secured loans and or the released matters. As used in this Agreement the term 'related parties' refers to a party's heirs, predecessor and successor entities, assigns, agents, servants, employees, officers, attorneys, spouses, shareholders, members, partners, divisions, subsidiaries, parent companies, affiliated companies, directors, executors, administrators, CPA's, real estate agents and advisors and representatives, and any surety, indemnitor, insurer, or other person having an obligation to indemnify for any conduct or liability of a party to this release, and as to BANK any person, business, entity or trust which in the regular course of business or otherwise provided information to BANK, which resulted in any assistance to BANK in any way regarding its prior collection efforts against, or negotiations with BORROWERS."

In paragraph 9 of the settlement agreement, the parties specified that the mutual release of claims included unknown claims. "Waiver of Rights As to Unknown Claims.

It is the intention and agreement of the parties in executing this Agreement and in giving and/or receiving the consideration for which it was given, that this Agreement shall be effective as a full and final accord and satisfaction and mutual release of each and all of their respective claims within the scope of the released matters against each other and their respective related parties on the conditions stated herein. In furtherance of this intention, each party on behalf of itself and its related parties, acknowledges that it is familiar with Section 1542 of the Civil Code of the State of California which provides as follows: A general release does not extend to claims which the creditor [party giving release] does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor [party being released]. Subject to the terms of this Agreement, each party hereto, on behalf of itself and its related parties, waives and relinquishes the right to any benefit which it has or may have under Section 1542 of the Civil Code of the State of California, to the full extent that it may lawfully waive such rights and benefits pertaining to the subject matter of this Agreement. In connection with such waiver and relinquishment, each party acknowledges that it is aware that it or its attorneys may hereafter discover claims or facts in addition to, or different from, those which it now knows or believes to exist with respect to the claims released hereby, but that it is each party's intention hereby to fully and finally and forever settle and release all of its claims within the scope of the released matters, known or unknown, suspected or unsuspected, which do now exist, may exist, or heretofore have existed against the other parties hereto."

In or about September 2010, Glencairn sent to First Citizens a check in the sum of $312,358.56 payable to Lake Forest and First Citizens. In December 2010, Glencairn was informed that Lake Forest was refusing to endorse the check.

In June 2011, Continental tendered a check to First Citizens in the amount of $104,118.72. First Citizens advised Continental that it was entitled to the payment and agreed to indemnify Continental with regard to the release of the funds to First Citizens. First Citizens thereafter negotiated the check from Continental.

PROCEDURAL BACKGROUND

In March 2012, Glencairn filed a complaint in interpleader against First Citizens and Lake Forest and deposited the sum of $312,358.56 with the trial court. The parties thereafter stipulated that Glencairn could be discharged from the action and, based thereon, the trial court entered an order discharging Glencairn.

In April 2012, Lake Forest filed a cross-complaint against First Citizens and Continental, asserting entitlement to the $104,118.72 that Continental had paid to First Citizens. First Citizens and Continental answered the cross-complaint.

The parties filed cross-motions for summary judgment in November 2012. Following briefing, the trial court held a hearing on the motions in January 2013 and took the matters under submission. In February 2013, the trial court entered a minute order granting Lake Forest's motion and denying the motion filed by First Citizens and Continental. The trial court thereafter entered formal orders and a judgment based thereon. First Citizens and Continental filed a timely notice of appeal from the judgment.

DISCUSSION

A. Standards of Review

Our review of the trial court's rulings on the summary judgment motions is governed by the well established principles. "'"A trial court properly grants a motion for summary judgment only if no issues of triable fact appear and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc., § 437c, subd. (c); see also *id*., § 437c, subd. (f) [summary adjudication of issues].) The moving party bears the burden of showing the court that the plaintiff 'has not established, and cannot reasonably expect to establish,'" the elements of his or her cause of action. (*Miller v. Department of Corrections* (2005) 36 Cal.4th 446, 460 [30 Cal.Rptr.3d 797, 115 P.3d 77].)' (*Wilson v. 21st Century Ins. Co*. (2007) 42 Cal.4th 713, 720 [68 Cal.Rptr.3d 746, 171 P.3d 1082].) We review the trial court's decision de novo, liberally construing the evidence in support

of the party opposing summary judgment and resolving doubts concerning the evidence in favor of that party. (*Yanowitz v. L'Oreal USA, Inc*. (2005) 36 Cal.4th 1028, 1037 [32 Cal.Rptr.3d 436, 116 P.3d 1123].)" (*State of California v. Allstate Ins. Co.* (2009) 45 Cal.4th 1008, 1017-1018.)

"We review the trial court's decision [on a summary judgment motion] de novo, considering all of the evidence the parties offered in connection with the motion (except that which the court properly excluded) and the uncontradicted inferences the evidence reasonably supports. (*Artiglio v. Corning Inc.* (1998) 18 Cal.4th 604, 612 [76 Cal.Rptr.2d 479, 957 P.2d 1313].) In the trial court, once a moving defendant has 'shown that one or more elements of the cause of action, even if not separately pleaded, cannot be established,' the burden shifts to the plaintiff to show the existence of a triable issue; to meet that burden, the plaintiff 'may not rely upon the mere allegations or denials of its pleadings . . . but, instead, shall set forth the specific facts showing that a triable issue of material fact exists as to that cause of action . . . .' (Code Civ. Proc., § 437c, subd. (*o*)(2); see *Aguilar v. Atlantic Richfield Co*. (2001) 25 Cal. 4th 826, 854-855 [107 Cal.Rptr.2d 841, 24 P.3d 493].)" (*Merrill v. Navegar, Inc*. (2001) 26 Cal.4th 465, 476-477.)

With regards to appellants' challenges to the trial court's rulings on certain evidentiary objections made by the parties, "the weight of California appellate court authority holds that a trial court's evidentiary rulings in summary judgment proceedings are reviewed for an abuse of discretion (*Miranda v. Bomel Construction Co., Inc*. (2010) 187 Cal.App.4th 1326, 1335 [115 Cal.Rptr.3d 538]), but the California Supreme Court has yet to determine 'generally whether a trial court's rulings on evidentiary objections based on papers alone in summary judgment proceedings are reviewed for abuse of discretion or are reviewed de novo' (*Reid v. Google, Inc.*[(2010)] 50 Cal.4th [512,] 535)." (*Ahn v. Kumho Tire, U.S.A., Inc.* (2014) 223 Cal.App.4th 133, 143-144; see *Howard Entertainment, Inc. v. Kudrow* (2012) 208 Cal.App.4th 1102, 1114.) Under either standard, the party aggrieved by that ruling must still demonstrate that it was prejudiced by any error under the harmless error doctrine. "In regard to whether the evidentiary ruling was harmless, an erroneous evidentiary ruling requires reversal only if

'there is a reasonable probability that a result more favorable to the appealing party would have been reached in the absence of the error. [Citation.]' (*Robertson v. Fleetwood Travel Trailers of California, Inc.* (2006) 144 Cal.App.4th 785, 815 [50 Cal.Rptr.3d 731]; see Evid. Code, § 354.)" (*Twenty-Nine Palms Enterprises Corp. v. Bardos* (2012) 210 Cal.App.4th 1435, 1449.)

B. Release and Waiver of Claims

The trial court ruled, inter alia, that First Citizen's predecessor in interest, First Regional Bank, had released and waived any claim against Lake Forest it may have had to the fire insurance proceeds pursuant to the broadly worded release language of the settlement agreement. First Citizens contends that its right to the fire insurance proceeds arose from the mortgages which required Lake Forest to procure and maintain insurance on the subject property for First Regional's benefit, as well as from the fire insurance policies themselves, each of which named First Regional Bank as a loss payee. According to First Citizens, nowhere in the settlement agreement did it give up or release its contractual right to recover the fire insurance proceeds from the insurance companies, neither of which were parties to the release.

1. Applicable Legal Principles

Although the general release in issue did not expressly reference First Regional Bank's claim against Lake Forest to the fire insurance proceeds, the established rule in California is that a broadly worded general release, such as the one at issue here, covers all known or unknown claims that are not expressly enumerated in the release, so long as those claims existed prior to the execution of the release. "[C]ourts have continued to adhere to the long-established general rule that—in the absence of fraud, deception, or similar abuse—a release of '"[a]ll [c]laims"' (*Edwards v. Comstock Insurance Co.* (1988) 205 Cal.App.3d 1164, 1166 [252 Cal.Rptr. 807] (*Edwards*); *Skrbina v. Fleming Companies* (1996) 45 Cal.App.4th 1353, 1360 [53 Cal.Rptr.2d 481]) covers claims that are not expressly enumerated in the release. [¶] . . . [¶] If courts did not follow this rule,

'it [would be] virtually impossible to create a general release that . . . actually achieve[d] its literal purpose' (*Winet v. Price* (1992) 4 Cal.App.4th 1159, 1172-1173 [6 Cal.Rptr.2d 554]), and language releasing all claims would be inherently misleading, causing unfair surprise to parties that offer payment on the reasonable expectation that all claims are settled, only later to face continuing litigation. (*Edwards, supra,* 205 Cal.App.3d at p. 1169.) Moreover, if courts did not enforce general releases, [a defendant] seeking a comprehensive settlement, would have to struggle to enumerate all claims the [plaintiff] might plan to allege. The [defendant] would never be able to know for sure that it had thought of every claim, and therefore it would never be able to put a definitive end to the matter. [Defendants] would then be disinclined to enter into settlements, because certainty as to the full extent of liability is one factor that motivates [defendants] to choose settlement over litigation." (*Jefferson v. Department of Youth Authority* (2002) 28 Cal.4th 299, 305-306.)

In *Villacres v. ABM Industries Inc*. (2010) 189 Cal.App.4th 562 (*Villacres*), the court explained the effect of a broadly worded, general release of claims between the settling parties that existed prior to the settlement as follows: "In *Augustine Medical v. Progressive Dynamics* (Fed.Cir. 1999) 194 F.3d 1367, the parties agreed to release "'any and all claims that were or could have been asserted by [the plaintiff] in the [present lawsuit]."' (*Id*. at p. 1369, italics omitted.) Nevertheless, the plaintiff filed a subsequent suit against the defendant. The defendant prevailed on summary judgment based on the release. As the court of appeals explained: 'Our interpretation of the language of the Settlement Agreement is consistent with judicial interpretation of general releases in settlement agreements. Both parties agree that their settlement provided a general release containing very broad language, such as "release and forever discharge," "any and all manner of action or actions," "relating to any acts, omissions or statements made by [the defendant]," and "including, but not limited to, *any and all claims that were or could have been asserted by* [*the plaintiff*] *in the* [*present lawsuit*]." General language such as these phrases have consistently been held by the courts to constitute a waiver of . . . all "claims based upon events occurring prior to the date of the release."' (*Id*. at p. 1372,

italics added; accord, *Imprimis Investors LLC v. U.S.* (2008) 83 Fed.Cl. 46, 50, 62 [release of 'all claims . . . asserted or that could have been asserted in the Actions' '"bars claims based upon events occurring prior to the date of the release"']; *D'Andrea v. University of Hawaii* (D. Hawaii 2010) 686 F.Supp.2d 1079, 1084-1085, 1087-1090 [release of '"claims that were asserted and could have been asserted in the Complaint,"' executed by parties in resolving university professor's 2007 suit for mistreatment, barred his 2009 action for wrongful suspension and termination because, at time of first suit, university had threatened to suspend and terminate him]; *Cole v. Powell* (D.D.C. 2009) 605 F.Supp.2d 20, 24 ['settlement agreements releasing [federal discrimination] claims that were or could have been alleged in the underlying case "are routinely enforced"']; *Republic Ins. v. Davis Systems of Pittsburgh* (1995) 543 Pa. 186 [670 A.2d 614, 615-616] [affirming grant of defendant's motion for summary judgment, barring subsequent suit where release in prior action covered '"any and all actions, cause of action, [and] claims, . . . including, but not limited to, all matters which have been raised or which could have been raised, in the action"' (italics omitted)].)" (*Id*. at p. 588.)

"As one court observed: 'T]he Settlement Agreement states that the Parties "enter this agreement in order to resolve all disputes among them which were or could have been raised in the Action . . . ." Clearly, the Settlement Agreement was meant to be a final resolution of all issues.' (*Lelsz v. Kavanagh* [(1995) 903 F. Supp. 1037,] 1041.) [¶] '[Releases] of this kind are not to be shorn of their efficiency by any narrow, technical and close construction. . . . If parties intend to leave some things open and unsettled their intent so to do should be made manifest.' (*United States v. Wm. Cramp & Sons Co*. (1907) 206 U.S. 118, 128 [51 L. Ed. 983, 27 S.Ct. 676, 678-679].) 'The rule for releases is that absent special vitiating circumstances, a general release bars claims based upon events occurring prior to the date of the release.' (*Johnson, Drake & Piper, Inc. v. U.S.* (1976) 209 Ct.Cl. 313 [531 F.2d 1037, 1047] (*per curiam*)." (*Villacres, supra*, 189 Cal.App.4th at pp. 588-589.)

2. Analysis

Although appellants characterize First Citizens' claim to the fire insurance proceeds as solely against the insurance companies, neither of whom were parties to the release, that is a mischaracterization of First Citizens' claim given the undisputed facts of this case. At the time First Regional Bank entered into the release, Lake Forest had already made claims against the two insurers in question for the entirety of the proceeds due under the insurance policies, and First Regional Bank was aware of those claims. There was no evidence that the insurance companies disputed that the loss was covered or that they contested the amount of the loss. Therefore, to the extent First Regional Bank had a competing claim to the proceeds based on its contract rights under the mortgages or the insurance policies, that claim was, in effect, against Lake Forest, not the insurance companies. Had First Regional Bank asserted a claim to the proceeds prior to the settlement, the insurance companies would have been in the same position as they were when First Citizens asserted a competing claim to those proceeds—neutral stake holders with no independent claims to the proceeds. Therefore, First Regional Bank's claim to the proceeds, if any, would have been solely against Lake Forest. That is why once the claims were adjusted and First Citizens asserted competing claims to the proceeds, Glencairn interpleaded its proceeds and was then dismissed by stipulation, and Continental insisted on an indemnity agreement prior to releasing its proceeds to First Citizens.

When Lake Forest made the claims for the insurance proceeds and First Regional Bank was made aware of those claims before the settlement agreement and before the foreclosure, any competing claim First Regional Bank may have had was covered by the broadly worded general release between Lake Forest and the bank, regardless of whether it was specifically enumerated in the release. Under the authorities cited above, if First Regional Bank intended to exclude from the scope of the release its claim against Lake Forest to the insurance proceeds, it was incumbent upon it to make that intent "manifest." Its failure to do so resulted in a release and waiver of that claim as a matter of law. The trial court therefore correctly granted Lake Forest's motion and denied appellants' cross-

motion on the grounds that First Citizens' predecessor in interest had released and waived any competing claim to the fire insurance proceeds as part of a comprehensive settlement and mutual release of claims.

First Citizens argues that under the mortgages, its "security" included not only the real property, but other items associated with the real property, including insurance proceeds; the foreclosure deed conveyed Lake Forest's interest in the property, including its interest in the insurance proceeds; and that because the foreclosure sale did not fully satisfy the debt and First Regional Bank made only a partial credit bid at the foreclosure sale, First Regional Bank, as the mortgagee, was entitled to recover the balance from insurance proceeds. (See 4 Miller and Starr, Cal. Real Estate (3d ed. 2013) § 10.81; *American Fire and Indemnity Company, Inc. v. Weeks* (Ala.Civ.App. 1997) 693 So.2d 1386, 1388.) Lake Forest counters that the loan obligations were satisfied by the settlement agreement, thereby extinguishing any interest First Regional Bank may have had in the insurance proceeds.

The fire occurred in 2007, at which point the insureds became entitled to the insurance proceeds. Lake Forest made claims, for itself, to the insurance proceeds, even though First Regional Bank could have claimed the insurance proceeds to the extent its security in the real property was impaired. (Rest.3d Property Mortgages § 4.7.) First Regional Bank, which was an additional insured on the policies, was notified of the fire and insurance claims. By April 2009, neither insurer had made any payment. The settlement agreement provided that First Regional Bank shall only be entitled to a foreclosure of the "real property security."

All obligations under the notes, except for the real property security subject to being foreclosed, were extinguished. And First Regional Bank released all other claims. At that time, whether or not the insurance proceeds can be considered part of the real property security, Lake Forest had claimed the insurance proceeds. First Regional Bank had not excepted from its general release any claims to the insurance proceeds, to which Lake Forest had made a claim. In any event, by extinguishing the debt in the settlement agreement, the parties, in effect, provided that First Regional Bank was not entitled to the

insurance proceeds. (See *Reynolds v. London & Lancashire Fire Ins. Co.* (1900) 128 Cal. 16, 19-20; *Armsey v. Channel Associates, Inc.* (1986) 184 Cal.App.3d 833.) Moreover, First Citizens only acquired rights in the real property held by First Regional Bank—not any rights in insurance proceeds that were not held or claimed by First Regional Bank.

C. Evidentiary Objections

Appellants contend that the trial court abused its discretion when it overruled certain of their objections to the declaration of Gregory Beach that was submitted in support of Lake Forest's summary judgment motion. Appellants further contend that the trial court abused its discretion when it sustained Lake Forest's objections to the declarations of Paul Comilang and Robert Morris that appellants submitted in support of their cross-motion. In response to appellants' evidentiary contentions, Lake Forest suggests, inter alia, that appellants have failed to demonstrate how the trial court's purported erroneous evidentiary rulings caused them prejudice.

Although appellants raise on appeal a multitude of purported erroneous evidentiary rulings by the trial court, they make no effort in their briefs to explain or show how any of those purported errors prejudiced them. And, because of the broadly worded general release, it is difficult to imagine how any of the evidence that is the subject of the objections in issue would affect the result. Absent the required showing of prejudice, there is no basis upon which to reverse the judgment based on the claimed evidentiary errors. (See *Twenty-Nine Palms Enterprises Corp. v. Bardos*, *supra*, 210 Cal.App.4th at p. 1449.)

DISPOSITION

The trial court's orders granting Lake Forest's motion for summary judgment and denying appellants' cross-motion for summary judgment, and the judgment based thereon, are affirmed. Lake Forest is awarded its costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

MOSK, Acting P. J.

We concur:

KRIEGLER, J.

MINK, J.*

* Retired Judge of the Superior Court of the County of Los Angeles, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.