

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

KATHY HOLT WEEDMAN, JACK)
SANDERS HOLT, JANELLE HOLT,)
JUDY BAUMAN and DONNA)
ETHRIDGE,)
)
Plaintiffs,)
)
VS.) NO. 16-464-BC
)
SANDERS MANUFACTURING)
COMPANY, OWEN SANDERS,)
JAMES J. SANDERS III, ERIC O.)
SANDERS, and LOREN G.)
KIRKPATRICK,)
)
Defendants.)

**MEMORANDUM AND ORDER RULING ON DEFENDANT COMPANY'S
MOTION FOR SUMMARY JUDGMENT SEEKING TO DISMISS
ALL CLAIMS OF MARCH 29, 2017 FIRST AMENDED COMPLAINT**

Defendant Sanders Manufacturing Company's Motion for Summary Judgment, filed September 15, 2017, is granted in part and denied in part as follows. To assist in understanding the following rulings this clarification is provided. The organization of the First Amended Complaint is that it contains two separate sets of Prayers for Relief. The first Prayer for Relief is referred to below as the "Derivative Action." The second Prayer for Relief is referred to as the "Dissolution Action."

1. Compensatory Damages Claim, Summary Judgment Granted—To the extent¹ that the Plaintiffs’ are seeking to recover compensatory damages in the First Amended Complaint, it is ORDERED that the motion of the Defendant Company for summary judgment is granted. The summary judgment record establishes there is no evidence of compensatory damages. Accordingly, it is further ORDERED that without compensatory damages, there are no issues for a jury to decide, and the jury trial shall not proceed.

2. Nullity of 2/11/16 Resolution, Summary Judgment Denied—Not dismissed on summary judgment are the Plaintiffs’ claims in paragraphs 1 and 10 of the Prayer for Relief on the Derivative Action of the First Amended Complaint for a determination by the Court that the February 11, 2016 Resolution is a nullity and ineffective as a result of a director’s conflicting interest transaction.

It is ORDERED that on December 11, 2017, a bench trial on the issue of a Court declaration nullifying the February 11, 2016 Resolution shall be conducted. A trial is required because the Plaintiffs filed no motion for summary judgment on this issue, and under these circumstances Tennessee law requires the Court to provide Defendants an opportunity to present any defenses such as advice of Counsel and/or financial advisors.

3. SERP Determinations, Already Dismissed in Previous Summary Judgment—With respect to paragraph 1 of the Prayer for Relief of the Derivative Action of the First Amended Complaint seeking “an order prohibiting the Board of Directors from

¹See first sentence of Prayer for Relief of the Verified Complaint For Shareholder Derivative Action, “monetary damages” (pages are not numbered) of First Amended Complaint, filed March 29, 2017.

adding Eric Sanders, Eugene Sanders, Jimmy Sanders, Loren Kirkpatrick” to the Supplemental Executive Retirement Plan”; paragraph 2 of the Prayer for Relief of the Derivative Action that “Eric Sanders does not meet the required qualifications to be a Participant under the Retirement Plan and make a declaratory judgment that he has no right or claim to any vested interest under the Retirement Plan”; paragraph 11 of the Prayer for Relief of the Derivative Action premised on a construction of the Plan; and paragraph 3 of the Prayer for Relief on the Dissolution Action, the Court reiterates its February 2, 2017 ruling granting summary judgment and dismissing these claims on the grounds of lack of jurisdiction. “Plaintiffs’ claims regarding construction of the Plan are preempted by federal law and must be asserted in federal court.” *Memorandum and Order*, February 2, 2017, at 9. Additionally, incorporated herein by reference are the analyses and authorities at pages 30-32 of the February 2, 2017 *Memorandum and Order*.

4. Claims for Board to Terminate SERP, Already Dismissed in Previous Summary Judgment—With respect to paragraphs 3 and 4 of the Prayer for Relief of the Derivative Action, these claims have already been dismissed in the February 2, 2017 *Memorandum and Order* at page 9. Additionally, incorporated herein by reference are the analysis and authorities at pages 22-30 of the February 2, 2017 *Memorandum and Order*.

5. Indemnification and Recovery of Attorneys Fees, Summary Judgment Denied—With respect to paragraphs 5, 6, 7, 8, 9 of the Prayer for Relief of the Derivative Action, these claims remain pending because there are genuine issues of material facts on:

(a) whether the Plaintiffs have conferred a benefit on the Company and are entitled to recover attorneys fees if successful at trial in having the Resolution declared void and in halting payment of attorneys fees as ordered in the June 13, 2017 Summary Judgment Order, and
(b) whether the Defendants are entitled to indemnification and recovery of attorneys fees. Entitlement to fees will be decided in the December 11, 2017 bench trial. The amount of any fees awarded will be decided at the conclusion of the litigation when work product is no longer an issue and entries on attorneys' time sheets can be viewed for reasonableness and necessity.

6. Dismissal of Dissolution as Moot—With respect to paragraphs 1, 2 and 5 of the Prayer for Relief of the Dissolution Action for dissolution of the Company or a buy-out of Plaintiffs' shares, it is ORDERED that these claims are dismissed as moot. The record establishes that all the Company's assets have been sold, and the Company is winding down.

7. Claims for Court Supervised Dissolution, Summary Judgment Denied—Not moot and pending are Plaintiffs' claims at paragraph 4 of the Prayer for Relief of the Dissolution Action for the voluntary dissolution to proceed under court supervision *see* Tennessee Code Annotated section 48-24-301(4) and 48-24-303. By prevailing on the June 13, 2017 Summary Judgment Order that the Defendants have advanced fees not in compliance with Tennessee law and if the Plaintiffs prevail at the December 11, 2017 bench trial on their claim to have the February 11, 2016 Resolution declared a nullity, these

determinations of wrongful actions by the Defendants create genuine issues of material fact on whether dissolution of Company must be judicially supervised.

/s/ Ellen Hobbs Lyle
ELLEN HOBBS LYLE
CHANCELLOR
BUSINESS COURT DOCKET
PILOT PROJECT

cc by U.S. Mail, email, or efile as applicable to:

William B. Hawkins III
Eric G. Evans
Ronald H. Pursell
Edward Hadley
James Catalano