

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 DENYING PLAINTIFFS’
AMENDED MOTION TO AMEND

It is ORDERED that Plaintiffs’ Amended Motion to Amend is denied as futile. As detailed below, the alleged wrongful events averred in the Motion, which form the bases for the proposed causes of action, are either already asserted in the pending complaint, are moot, or fail to state a claim. The reasoning for this ruling is as follows.

After studying the proposed Second Amended Complaint (the “Amendment”), the Court adopts the analysis of Counsel for the Defendant Company that the causes of action of the Amendment are based upon the following six events:

- a) voting down the Weedman Proposal;
- b) voting down the SERP Investigation Proposal;
- c) advancing the Defendant Directors’ legal fees in this litigation;
- d) hiring undersigned counsel to defend Sanders in this litigation;

- e) entering into a 36-month lease for commercial real estate in 2017; and
- f) negotiating the terms of the “Express-A-Button” sale.

Defendant Sanders Manufacturing Company’s Response in Opposition to Plaintiffs’ Motion to Amend, October 30, 2017 at 4.

With respect to the events identified as (d), (e) and (f), the Amendment is futile for failure to state a claim. The events identified as (d), (e) and (f) under the Tennessee corporation statute are managerial actions not Board decisions, unless the By-laws of the Defendant Company identify these events as requiring Board approval. The Amendment fails to cite to any By-law of the Company which takes these events outside of the realm of managerial actions and requires that the Board approve.

Additionally futile about the events identified as (d), (e) and (f), as to (d) the Amendment is untimely. The Plaintiffs have known since June 27, 2016, Attorney Catalano had been retained as Counsel.

Accrediting the facts stated by Attorney Pursell, the Court finds, as to the event identified as (e), the lease has been assumed and is no longer an obligation of the Company and, therefore, is moot.

As to (f), it is moot. The Court finds the proposed noncompete payment has been accounted for by the buyer in the price and there are no noncompete payments being made to a Company director.

In finding (e) and (f) are moot, the Court ORDERS, pursuant to Tennessee Civil Procedure Rule 43.02, that by November 22, 2017, Attorney Pursell shall file an affidavit

attesting to the matters asserted at pages 50-56 of the transcript of the November 3, 2017 hearing and pages 57-58 of the transcript.

As to the events identified as (a) and (c), these events can be testified to at the upcoming trial because they relate to advancing the Defendant Directors' legal fees in this litigation which are claims that are already pending in the litigation. Because these claims are already pending, the Amendment is unnecessary.

As to item (b), the Court has previously ruled in summary judgment that these issues are preempted by ERISA and the Court does not have jurisdiction to decide them. To the extent, as part of the Plaintiffs' claim for judicial supervision of the winding down of the Defendant Company the Plaintiffs seek for this Court to stay some or all of the funding of the SERP and/or shareholder distributions for the Plaintiffs to file a federal lawsuit, those claims are already before the Court as part of the December 2017 trial for judicial supervision and winding down.

It is for these reasons that the Plaintiffs' Amended Motion to Amend is denied as futile.

/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