

Only recently during the deposition of the Defendant in January 2018 did Plaintiff Solis-King discover that Defendant Goble, acting on behalf of KG Hospitality Group LLC d/b/a Foo Bar without the knowledge and consent of Plaintiff Solis-King, sold the business, it appears in August 2016, to an entity known as Three Point Five Star, LLC d/b/a Cobra. The Plaintiff asserts this entity was formed by a group of KG Hospitality Group LLC d/b/a Foo Bar employees. Three Point Five Star, LLC d/b/a Cobra consists of four members; namely, Samantha Barrett, Rebecca Cobb, Matt Gray and Nikolaos Gehrke.

The Plaintiff has filed a motion to continue the April 2, 2018 trial and to be granted leave to amend the *Verified Complaint* to join Three Point Five Star, LLC d/b/a Cobra asserting in connection with the sale conspiracy and fraudulent conveyance against Cobra.

Usually, in ruling on a motion to amend a complaint, a trial court is to consider (1) undue delay in filing; (2) lack of notice to the opposing party; (3) bad faith by the moving party; (4) repeated failure to cure deficiencies by previous amendments; (5) undue prejudice to the opposing party; and (6) futility of amendment. *Kincaid v. South Trust Bank*, 221 S.W.3d 32, 42 (Tenn. Ct. App. 2006).

These factors, however, are not truly applicable in this matter because the claims the Plaintiff seeks to add can be brought separately and independently against Defendant Goble and Cobra in a second phase of this lawsuit. Moreover, it would be a benefit to all the parties and nonparties if the present parties' claims of breach of contract, accounting,

breach of fiduciary duties and conversion were decided first before litigation about the sale of the business to Cobra because trying the present claims would inform and potentially narrow the issues for further claims against Defendant Goble and Cobra about the sale.

It is therefore ORDERED that the Plaintiffs' motion to continue is denied, and the trial shall proceed on April 2, 2018 on the claims of the *Verified Complaint* filed January 21, 2016 and the *Verified Counter-Complaint* filed April 21, 2016.

It is further ORDERED that a ruling on the Plaintiffs' motion to amend, filed March 2, 2018, is held in abeyance until the conclusion of the April 2, 2018 trial.

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

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

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