

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)
)
 Carroll A. Campbell, III, and)
 John D. Cattano,)
)
 Plaintiffs,)
)
 vs.)
)
 Triton Stone Group, LLC, Triton Stone)
 Management, LLC, Triton Stone Southaven,)
 LLC, Joshua Kessler, Randy Mathis, Gary)
 Sena, Triton Stone Group New Orleans,)
 LLC, Christian Jensen, and Jack Jensen)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 FIFTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2014-CP-26-04888

RECEIVED

FEB 08 2016

SC Court of Appeals

**ORDER DENYING IN PART AND
 GRANTING IN PART
 DEFENDANTS' MOTIONS FOR
 PROTECTIVE ORDER**

This matter came before the court on Defendants' **Triton Stone Group, LLC, Triton Partners Management Group d/b/a Triton Stone Management Group of Charlotte, LLC d/b/a Triton Stone Management, LLC, Triton Stone Southaven, LLC, Joshua Kessler, Randy Mathis, Gary Sena, Triton Stone Group New Orleans, LLC, Christian Jensen, and Jack Jensen's** ("Defendants") Motions for a Protective Order. For the reasons set forth below, Defendants' motions are denied in part, and granted in part.

Defendants' Motions request that they be protected from responding to Plaintiffs' Discovery requests until such time as a bankruptcy court rules in a related action as to whether Plaintiffs' claims in this action are (a) individual claims which belong to the plaintiffs, or (b) derivative claims which belong to the bankruptcy trustee for Congaree Triton Acquisitions, LLC.

This action was commenced in March 2014 and the Defendants moved to dismiss on various grounds. Judge Cooper heard the Defendants' Motions and issued an Order dated July 9, 2014, which held that Plaintiffs' causes of action are individual claims of the Plaintiffs' and do not belong to the bankruptcy trustee. Subsequently, in August 2015, the Bankruptcy trustee filed an action in Bankruptcy Court contending that the Plaintiffs' claims are derivative. The Plaintiffs moved to dismiss the Trustee's Complaint. On October 20, 2015, the Bankruptcy Court held a hearing and took the matter of the Plaintiffs' Motion to Dismiss under advisement. The Bankruptcy Court has not yet ruled on the matter.

During the January 5, 2016 motions hearing in this action, Defendants stated that they did not know, and could not predict, when the bankruptcy court will issue an Order. Plaintiffs' counsel stated that if the Plaintiffs' motion to dismiss in bankruptcy court is denied, such would not end the matter and the bankruptcy proceeding could continue for another year.


CONCLUSIONS OF LAW

The initial burden of proof is on Defendants, as the Parties requesting protection, to show good cause for this court to issue a Protective Order "by alleging a particular harm which will result if the challenged discovery is had." Hamm v. South Carolina Public Service Comm'n, 312 S.C. 238, 241 (1994).

I find that Defendants failed to meet their burden of showing good cause with respect to a Protective Order for an indefinite term. Accordingly, insofar as Defendants' motions seek a protective order lasting until such time as the Bankruptcy Court rules as to the ownership of Plaintiffs' claims, Defendants' motions must be and hereby are denied.

I find that Defendants are entitled to a Protective Order for the next thirty (30) days. If the Bankruptcy Court issues an order with respect to Plaintiffs' Motion to Dismiss within these next thirty (30) days, then the Defendants must fully respond to the Plaintiffs' discovery requests within twenty (20) days after the Bankruptcy Judge issues the order. If no order on Plaintiffs' Motion to Dismiss is issued within thirty (30) days, then the Defendants must respond to the Plaintiffs' discovery requests within fifty (50) days from the date of this Order.

IT IS SO ORDERED.



The Honorable J. Derham Cole
Presiding Judge

Conway, South Carolina

Dated: _____

1/17, 2016