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## Home Builder Beats NC Trade Secrets Suit

By **Travis Bland**

Law360 (May 6, 2024, 6:24 PM EDT) -- The North Carolina's business court scrapped an interior designer's claims that a competitor stole cabinetry designs and customer information when it hired a former employee, sparing only an accusation that the ex-worker embezzled money.

In a Thursday order, Judge Adam M. Conrad threw out claims Design Gaps Inc. levied against Peters Custom Homes Inc., Peters Custom Designs and their owners, ruling the allegations of misappropriation of trade secrets were "vague" and stated in the complaint in "conclusory fashion."

"Ultimately, our team of attorneys successfully proved that Design Gaps failed to present the facts, identify any trade secrets, or show how the origin of these designs actually belonged to Design Gaps," Alex Long of Shumaker Loop & Kendrick LLP, representing Peters Custom and its owners, said in a statement. "State and federal judges agreed with our team that the claims under the federal and state laws were not pled and were properly dismissed with prejudice."

The complaint alleged Peters Custom hired former Design Gaps employee Jocelyn Hall shortly after she left the company, and proceeded to appropriate cabinetry designs, customer lists, pricing information and other trade secrets she stole upon her departure.

Judge Conrad tossed the misappropriation of trade secrets claim under North Carolina law, saying "the complaint doesn't come close to satisfying" the standards for specifics needed for such a claim to survive dismissal.

Judge Conrad also canned a tortious interference with contract claim that alleged Peters Custom induced Hall into breaching an employment noncompete and nonsolicitation agreement, holding no valid agreement existed for Peters Custom to interfere.

According to Design Gaps, Hall breached her a provision in her employment agreement that said she would not work for a competitor or solicit any customers for two years. However, Judge Conrad found the breach of contract claim had to be dismissed because the agreement is "overbroad and unenforceable."

Judge Conrad said the "sweeping restriction" of the employment agreement would "prevent Hall from having any association with a competitor, even if unrelated to the duties she performed for Design Gaps" and that "isn't remotely tailored to protect Design Gaps' legitimate business interests."

An unfair and deceptive trade practice under state law was based on the misappropriation, interference and breach claims and with those tossed, the former couldn't survive dismissal, Judge Conrad ruled.

Judge Conrad also tossed breach of fiduciary duty, constructive fraud and fraud claims against Hall, saying as a nonexecutive, she didn't

owe a duty to Design Gaps, and the company hadn't alleged it relied on any fraudulent information by Hall.

All the claims, barring one, were dismissed with prejudice.

The only claim to survive is an allegation of embezzlement against Hall, accusing her of rerouting money from Design Gaps customers to her own company.

Judge Conrad ruled Design Gaps allegation that Hall destroyed a check made out to the company and told a customer to pay her company instead was sufficient to allow the embezzlement claim to move forward.

Hall worked for Design Gaps in 2018 and left in 2021, according to the order. She asked to keep her work laptop, telling Design Gaps it would be easier for her to answer any questions her replacement had.

While claiming to have been burnt out, she went to work for Peters Custom Designs — which does business as Emerald & Oak Design Studio — a few weeks later, prompting Design Gaps to retrieve the laptop and block Hall's access to company data, the order said.

Design Gaps contends its customers were directed by Hall to pay her personal company, Hall Interior, instead of Design Gaps, according to court filings.

Design Gaps brought a similar trade secrets and embezzlement suit in federal court in early 2023, but it was dismissed after the federal court ruled it wouldn't take on state law claims, according to the order.

The interior design company sued Hall and Peters Custom in the North Carolina Business Court in December 2023.

Counsel the parties did not immediately respond to requests for comment Monday.

Design Gaps is represented by Todd M. Hess of Hess Law PLLC.

Peters Custom Designs and its owners are represented by Lucas D. Garber and Samuel Alexander Long of Shumaker, Loop & Kendrick LLP.

Hall is represented by Margaret Behringer Maloney of Maloney Law & Associates PLLC.

The case is Design Gaps et al. v. Hall et al., case number 2023CVS40664, in the North Carolina Business Court.

--Editing by Drashti Mehta.