



Portfolio Media. Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Packaging Co. Can't Limit Rival's Sales In NC Biz Spat

By **Travis Bland**

Law360 (July 24, 2024, 8:09 PM EDT) -- The North Carolina Business Court on Wednesday refused to limit the clientele of a packaging company facing sales-poaching claims by a competitor, reasoning that the rival's lawsuit isn't likely to succeed.

State Business Court Judge Adam M. Conrad issued an order posted Wednesday declaring that he would not intercede in defendant Yukon Packaging's sales to a company that had worked with plaintiff Eco Fiber, finding that the latter company hadn't offered enough specifics about alleged malicious actions.

"The remedy should fit the wrong," Judge Conrad said. Eco Fiber "seeks a broad injunction. ... That goes too far."

Eco Fiber isn't likely to prevail on a claim that its former president, Rabindranauth Heeralall, breached his fiduciary duty when he plotted with others working for the company to form Yukon Packaging, Judge Conrad contended.

"Eco Fiber bears the burden to show that Heeralall's activities went beyond planning and preparing to compete," the order said. "It has not carried that burden."

The plaintiff will also probably lose on an allegation that the defendants, including two of its other former employees, interfered in a relationship with a buyer for the benefit of Yukon Packaging, according to Judge Conrad.

The pleadings of Eco Fiber don't contain accusations of the malicious intent to interfere in a business relationship to sustain such a claim, Judge Conrad said.

"Eco Fiber's briefs don't even mention this essential claim element, much less point to evidence to show that it would have kept all or part of Veritiv's business but for defendants' interference," the order said. "For the party with the burden of proof, that oversight is self-defeating." Veritiv Corp. was Eco Fiber's primary customer.

Claims that two former employees, Christopher Poore and David Vance, engaged in unfair and deceptive practices in plotting to found a rival company and take business from Eco Fiber are, again, unlikely to succeed, Judge Conrad concluded.

The pair's consulting agreements didn't require that they exclusively work for Eco Fiber, and the company didn't allege that the two misused and stole confidential information, the order said.

In a statement, attorney Tom BenGera, representing the Yukon Packaging defendants, said: "We are pleased with the court's ruling and what it represents for our client, Yukon Packaging, who is now able to continue providing its innovative and high-quality, cold-chain solutions to meet a growing demand. The court's decision recognizes the importance of free and lawful competition for North Carolina businesses. Defeating Eco Fiber's motion took a total team effort, and we are proud and grateful to everyone that contributed."

Charlotte-based Eco Fiber, which sells insulated boxes for cold transportation, sued Yukon Packaging and its founders in May, alleging that they used their insider knowledge of Eco Fiber's business to form the rival company and poach sales.

The case took a sojourn to federal court before being sent back to the North Carolina Business Court, where Eco Fiber requested the preliminary injunction to stop Yukon Packaging's sales to Veritiv Corp., Eco Fiber's former main customer.

The defendants struck back against Eco Fiber's allegation in a counterclaim, accusing the company of breaching consulting contracts and keeping money owed to Poore and Vance.

Heeralall had uncovered "self-dealing" between Eco Fiber and another company, which prompted his employer to fire him, the counterclaim said. Eco Fiber and its former president came to terms with the company about his termination, and it agreed that he would be released of all claims.

In a separate federal court case, Eco Fiber sued Vance alone, accusing him of asserting that he held a patent on the insulated boxes when he didn't have such a patent.

A federal **court enjoined Vance** from "making bad-faith, objectively false assertions of infringement," according to the court order. The court said Vance knew his patent didn't cover the insulated containers. While he was prosecuting his patent in April 2023, the U.S. Patent and Trademark Office made Vance choose between pursuing claims for a method of forming and loading, and claims for the insulated container apparatus, and he chose the former, the order said. He has since filed an application to pursue a patent on the latter.

"In this case, there is no dispute that Mr. David Vance is an innovator, inventor, and owner of the subject patent(s)," Vance's attorney, Alex Long of Shumaker Loop & Kendrick LLP, told Law360 in June, adding that the federal court had misapplied a seldom sued North Carolina patent law.

Vance appealed the injunction to the Federal Circuit.

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

Eco Fiber is represented by Christopher P. Raab and Daniel M. Nunn of Caudle & Spears PA and Chad D. Tillman and James D. Wright of Tillman Wright PLLC.

The defendants are represented by Tom BenGera, Lucas D. Garber, Samuel Alexander Long Jr. and Frederick Thurman of Shumaker Loop & Kendrick LLP.

The case is Eco Fiber Inc. v. Yukon Packaging LLC et al., case number 2024CVS20983, in the North Carolina Business Court.

--Additional reporting by Dani Kass. Editing by Rich Mills.