

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND
BUSINESS COURT**

**PARTNERS IN CARE LABORATORIES LLC,
LEONARD SALVAGGIO, and
STEPHEN TAYLOR,**
Plaintiffs,

Case No. 2025-214331-CB

v

Hon. Victoria A. Valentine

**ORCHARD LABORATORIES CORP
d/b/a ORCHARD TOXICOLOGY,
ALPHA MEDICAL LABORATORY LLC,
d/b/a ODX HEALTH,**
Defendants.

and

**ALPHA MEDICAL LABORATORY LLC,
d/b/a ODX HEALTH,**
Counter-Plaintiff,

v

CHRIS AGOZINO,
Defendant.

_____ /

**OPINION AND ORDER REGARDING PLAINTIFFS/COUNTER-DEFENDANTS' AND
CHRIS AGOZINO'S MOTION FOR PARTIAL SUMMARY DISPOSITION PURSUANT
TO MCR 2.116(C)(8) AS TO ALPHA MEDICAL LABORATORY LLC D/B/A ODX
HEALTH'S CCOUNTERCLAIM (*SIC*)**

At a session of said Court held on
the 12th day of November 2025
in the County of Oakland, State of Michigan
PRESENT: HON. VICTORIA A. VALENTINE

This matter is before the Court on Plaintiffs/Counter-Defendants' Motion for Partial Summary Disposition Pursuant to MCR 2.116(C)(8) as to Alpha Medical Laboratory LLC d/b/a ODX Health's CCounterclaim (*sic*). This Court has reviewed the pleadings as well as the motion, response, and reply brief. Oral argument was held on the motion.

FACTUAL OVERVIEW

The background between the parties is not disputed. Orchard Laboratories, Corp. (“Orchard”) owned and operated a clinical laboratory in West Bloomfield, Michigan. Plaintiff, Stephen Taylor (“Taylor”) was an Account Executive for Orchard beginning in October 2023. Leonard Salvaggio (“Salvaggio”) was the Director of Sales & Marketing for Orchard beginning in November 2023. Taylor and Salvaggio signed Employment Agreements with Orchard. Both Agreements contain non-solicitation and non-competition clauses lasting for two years from the date of termination of employment. Additionally, both Agreements contain the following clause:

Section 11. Assignment. This Agreement is personal to the Employee and Employee may not assign nor delegate any of Employee’s rights or obligations hereunder . . . **Orchard may, without Employee’s consent, assign this Agreement** to any parent, subsidiary or affiliate of Orchard, to any successor in interest to the business of Orchard, or to a purchaser of all or substantially all of the assets of Orchard (“Successor”); **in the event of such assignment by Orchard, Employee’s obligations under this Agreement, including those contained in Sections 4-9, 11 and 14 shall remain in full force and effect and owed to such Successor.**

Plaintiffs’ Exhibits A and B (emphasis added).

The parties disagree as to what transpired in February 2025. Defendants allege that Alpha Medical Laboratory LLC, d/b/a ODX Health (“ODX”) acquired substantially all of Orchard’s Assets and began operating and managing the Lab (Defendants’ Exhibit C). Defendants further allege that Orchard assigned the Plaintiffs’ Employment Agreements as part of the acquisition (Defendants’ Exhibit C, Schedule A). Defendants argue that Plaintiffs were fully aware of the acquisition and transition to a new entity. Defendants further argue that Plaintiffs received business cards and paychecks from the new entity.

Plaintiffs argue that Orchard shut down due to regulatory, litigation and financial problems, sold its assets to a new lab (ODX), and concealed the sale from Plaintiffs. Plaintiffs argue that they have no contract with ODX and that they never signed the required employment documents, such

as a W-9. Finally, Plaintiffs argue that Orchard Labs told them the transition was a “rebranding.”

ODX filed a Counterclaim alleging that Plaintiffs Taylor, Salvaggio, and Defendant Chris Agozino created a company while still employed with ODX and operated that company while still employed with ODX, including soliciting ODX’s clients and employees. ODX brought its Counterclaim for Breach of Contract (Count I), Tortious Interference with Contract (Count II), Tortious Interference with Business Relationships/Expectancies (Count III), Breach of Fiduciary Duty and Duty of Loyalty (Count IV), Conspiracy and Concert of Action (Count V), Inducement of Breach of Fiduciary Duty (Count VI), Common Law Unfair Competition (Count VII) and Unjust Enrichment (Count VIII).

STANDARD OF REVIEW

A motion for summary disposition pursuant to MCR 2.116(C)(8) tests the legal sufficiency of the complaint, not whether the complaint can be factually supported. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159-160; 934 NW2d 665 (2019); *Pawlak v Redox Corp*, 182 Mich App 758, 763; 453 NW2d 304 (1990). A motion for summary disposition based on the failure to state a claim upon which relief may be granted is to be decided on the pleadings alone. *Bailey v Schaaf*, 494 Mich 595, 603; 835 NW2d 413 (2013); *Parkhurst Homes, Inc v McLaughlin*, 187 Mich App 357, 360; 466 NW2d 404 (1991).

“All well-pleaded factual allegations are accepted as a true and construed in a light most favorable to the nonmovant.” *Maiden v Rozwood*, 461 Mich 109, 119; 597 NW2d 817 (1999); *Wade v Dep’t of Corrections*, 439 Mich 158, 162; 483 NW2d 26 (1992). Summary disposition is proper when the claim is so clearly unenforceable as a matter of law that no factual development can justify a right to recovery. *Parkhurst Homes*, 187 Mich App at 360; *Spiek v Dep’t of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998).

ANALYSIS

Generally, Plaintiffs have blurred a Motion filed under (C)(8) with one filed under (C)(10). “The distinction between MCR 2.116(C)(8) and (C)(10) is one with an important difference: a claim’s legal sufficiency as opposed to a claim’s factual sufficiency.” *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159-160; 934 NW2d 665 (2019). In fact, in *El-Khalil* the Michigan Supreme Court reversed summary dismissal under MCR 2.116(C)(8) predicated upon plaintiff’s failure to present evidence because that is beyond the scope of review under subrule (C)(8). *Id.*

Breach of Contract (Count I)

Plaintiffs argue that the breach of contract claim fails because the contract at issue is between the individual Plaintiffs and Orchard. The allegations in the Counterclaim set forth the assignment of the Employment Agreements from Orchard to ODX (Counterclaim, ¶ 26).

Plaintiffs argue that the assignment of the Employment Agreements is not valid, but this is a defense to the claims made. The facts alleged in the Counterclaim support a valid breach of contract action. Plaintiffs rely upon *Bercaw v Allied Paper Co.*, 377 Mich 499 (1966) to support their position that the covenants were not assignable, as a matter of law. However, the Court in *Bercaw* found that there was “evidence from which it could have been found that appellant was, indeed, an assignee of Bercaw’s employment contract and as such was entitled to any alleged benefits conferred by that contract, such as Bercaw’s covenant not to compete.” *Id.* at 514. But the company attempting to enforce the covenant argued in its pleadings that it had not taken an assignment. Because of that argument, the covenant was not enforceable. *Id.* at 515. Plaintiffs also rely upon an unpublished decision, but the court in that case noted that the contract at issue in that matter had no provisions relating to assignment, so the holding is inapplicable to this case.

Plaintiffs' arguments as to whether the covenant is reasonable are not proper under (C)(8). Because the Counterclaim sets forth a claim for breach of contract based upon the Assignment of Employment Agreements, summary disposition is not warranted.

Tortious Interference with Contract (Count II)

Plaintiffs' only challenge to this claim is that Defendants rely upon an "illegal contract" as the basis for their claims (Plaintiffs' Brief, p 14). For the reasons set forth above, Defendants have established, under the standard set forth in (C)(8), that a valid Assignment from Orchard to ODX exists to support their claims for tortious interference. Summary disposition is not warranted.

Breach of Fiduciary Duty and Duty of Loyalty (Count IV)

Plaintiffs argue that there is no fiduciary duty owed by employees to a company, and that the duty exists only with officers and directors of a company. The case law cited by Plaintiffs does outline fiduciary duties owed by officers and directors, but none of the cases exclude a fiduciary duty in every employer-employee relationship. *Magnetic Prods, Inc v Puritan Magnetics, Inc*, unpublished Opinion per curiam of the Court of Appeals, decided July 31, 1998 (Docket No. 198715), does not support Defendant's position, because the Court of Appeals did not address the issue of whether the fiduciary relationship found by the trial court was proper. Neither party has properly supported its position as a matter of law.

Defendants have alleged that the individual Defendants were senior level management, which could create duties to the corporation.

Under MCR 2.116(C)(8), Defendants have stated a claim for breach of fiduciary duty.

Conspiracy and Concert of Action (Count V)

Plaintiffs argue that there is no concert of action claim in Michigan, but fail to address the

civil conspiracy action. Civil conspiracy is an actionable claim in Michigan. *See, Mercurio v Huntington Nat'l Bank*, 347 Mich App 662; 16 NW3d 748 (2023). Under MCR 2.116(C)(8), Defendants have stated facts sufficient to support this claim.

Inducement of Breach of Fiduciary Duty (Count VI)

Defendants have agreed to withdraw this claim.

Common Law Unfair Competition (Count VII)

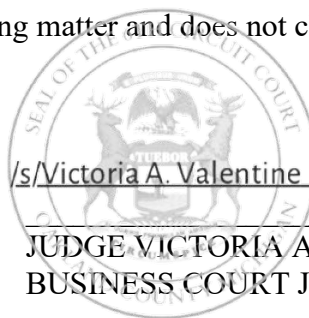
Plaintiffs argue that Defendants failed to plead that the public was actually deceived and therefore, cannot claim unfair competition. However, evidence to prove the claims is not required in a Complaint, nor is it required under (C)(8). Plaintiffs ignore the allegations contained within paragraphs 56-47 of the Counterclaim, as well as other allegations that, when taken together, may support an unfair competition claim, when viewed in the light required under (C)(8).

ORDER

IT IS HEREBY ORDERED that Plaintiff's Motion for Summary Disposition under MCR 2.116(C)(8) is denied as to Counts I, II, IV, V, and VII of Defendant ODX's Counterclaim, and granted as to Count VI of Defendant ODX's Counterclaim

IT IS SO ORDERED.

This Order does not resolve the last pending matter and does not close the case.

The seal of the Michigan Business Court is circular, featuring a central figure holding a scale and a sword, surrounded by the text "SEAL OF THE MICHIGAN BUSINESS COURT".
/s/Victoria A. Valentine
JUDGE VICTORIA A. VALENTINE
BUSINESS COURT JUDGE

DATE: 11/12/25