

STATE OF MICHIGAN
IN THE 17th CIRCUIT COURT FOR KENT COUNTY

CET PHARMACY GRAND RAPIDS, LLC,
a Michigan limited liability company;
LIVE LIFE HOME HEALTHCARE, LLC,
a Michigan limited liability company; and
LIVE LIFE SERVICES, LLC, a Michigan
limited liability company,

Plaintiffs/Counter-Defendants,

vs.

JOSEPH YOUNG a/k/a Luke Young, an
individual,

Defendant/Counter-Plaintiff
and Third-Party Plaintiff,

vs.

TAREK MAZLOUM; an individual; CHADI
AZZI, an individual; and EDDY AOUN, an
individual,

Third-Party Defendants.

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Case No. 14-04477-CKB

HON. CHRISTOPHER P. YATES

ORDER ALLOCATING VALUATOR'S FEE

Winston Churchill once counseled: “In defeat: defiance. In victory: magnanimity.” If that maxim applies to litigation, neither side is winning in this case because both sides seem defiant in the face of an outstanding bill from their chosen valuator. More than a year ago, the parties came to the Court with a modest proposal: Hold off on scheduling to allow a 30-day period for valuation of the companies at issue followed by a 30-day period for facilitative mediation. Now those 30 days for valuation have stretched beyond 300 days, the valuator selected by the parties has an outstanding

bill for more than \$25,000, and the plans for expeditious resolution of this dispute lie in tatters on the ground. Obviously, the time has come for the Court to wrest control of this case from the parties, who seem either unwilling or unable to make any progress on their own.

The first order of business concerns payment of the parties' chosen valuator, the redoubtable firm of O'Keefe & Associates Consulting, LLC ("O'Keefe"). At the inception of its engagement, O'Keefe received \$15,000, with each side paying half of that amount. Since then, O'Keefe has taken on the task defined by the parties as establishing values for two of the entities at issue in this dispute, but O'Keefe has not received a dime for its services beyond the initial retainer payment. As a result, O'Keefe is now owed more than \$25,000 for its work on this matter. This outstanding balance is an embarrassment to the Court and the parties alike. Nobody disputes that O'Keefe has performed the work supporting its billing, yet nobody has made any effort to pay O'Keefe for its services.

As the Court has observed, O'Keefe has struggled to obtain necessary documents from those in control of the pharmacies in the CET family.* Undoubtedly, those documents were primarily (if not exclusively) under the control of Third-Party Defendants Tarek Mazloun, Chadi Azzi, and Eddy Aoun, rather than Defendant Joseph Young. But Young initially proposed that the Court secure the services of a valuator, and he promised to bear his share of the costs for those services, so the Court cannot simply absolve Young of all financial responsibility for O'Keefe's fees. Instead, the Court shall allocate responsibility for O'Keefe's outstanding balance in the following manner: Each of the third-party defendants shall be responsible for one-quarter of that balance, and Young shall pay one-quarter of that balance.

* Much like the NCAA, O'Keefe has been hamstrung by its lack of subpoena power. Given this lack of authority, O'Keefe can only obtain necessary documents by asking the parties in control of those documents to voluntarily provide them.

The parties' failure to pay O'Keefe's bill has not only deprived O'Keefe of compensation for too long, but also impeded the progress of this case because O'Keefe has justifiably refused to issue its report until it receives payment for services it has rendered. Accordingly, in order to move this case forward and provide overdue compensation to O'Keefe, IT IS ORDERED that each of the three third-party defendants, *i.e.*, Tarek Mazloun, Chadi Azzi, and Eddy Aoun, and Defendant Joseph Young shall pay to O'Keefe & Associates Consulting, LLC, within 30 days of the entry of this order one-quarter of the outstanding balance for services rendered by O'Keefe in this case.

IT IS SO ORDERED.

Dated: June 2, 2015



HON. CHRISTOPHER P. YATES (P41017)
Kent County Circuit Court Judge