

FILED
07-23-2021
John Barrett
Clerk of Circuit Court
2021CV004368
Honorable Carl Ashley-33
Branch 33

STATE OF WISCONSIN
MILWAUKEE COUNTY

CIRCUIT COURT
CIVIL DIVISION

DAVID BAGLEY,
106 West Seeboth Street, Unit 807
Milwaukee, Wisconsin 53204,

Plaintiff,

-vs-

RYAN GAJEVIC,
1301 Milwaukee Avenue
South Milwaukee, Wisconsin 53172, and
THE TAP ROOM, LLC,
1301 Milwaukee Avenue
South Milwaukee, Wisconsin 53172,

Defendants.

Case No.
Classification Code: 30303

SUMMONS

THE STATE OF WISCONSIN

To Each Person Named Above As A Defendant:

You are hereby notified that the Plaintiffs named above have filed a lawsuit or legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is:

Clerk of Courts
Milwaukee County Courthouse
901 North Ninth Street
Milwaukee, Wisconsin 53233

and to Plaintiffs' attorneys:

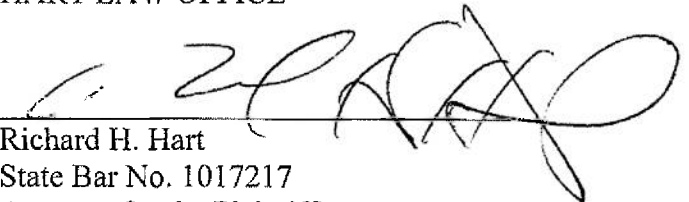
HART LAW OFFICE
207 East Buffalo Street, Suite 201
Milwaukee, Wisconsin 53202

You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated at Milwaukee, Wisconsin, this 19th day of July, 2021.

HART LAW OFFICE



Richard H. Hart
State Bar No. 1017217
Attorney for the Plaintiff

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COMPLAINT

NOW COMES the Plaintiff, David Bagley, by his attorneys, HART LAW OFFICE by Attorney Richard H. Hart, and as and for a complaint in this matter alleges and shows to the court the following:

1. The Plaintiff, David Bagley (hereinafter referred to as "Bagley") is an adult resident of the County of Milwaukee, State of Wisconsin, residing at 106 West Seeboth Street, Unit 807, Milwaukee, Wisconsin 53204.

2. Upon information and belief, the Defendant Ryan Gajevic (hereinafter referred to as "Gajevic") is an adult resident of the County of Milwaukee, State of Wisconsin, with a business address of 1301 Milwaukee Avenue, South Milwaukee, Wisconsin 53172.

3. Upon information and belief, The Tap Room, LLC, (hereinafter referred to as the "Corporation") is a limited liability company organized pursuant to the laws of the State of Wisconsin with its business and office located at 1301 Milwaukee Avenue, in the City of South

Milwaukee, County of Milwaukee, State of Wisconsin (hereinafter referred to as the "Business"). Bagley and Gajevic are members of the Corporation and owners of the Business. The Corporation was formed in 2015.

4. The Corporation owns and operates a tavern/restaurant, the Business, at the address indicated above. Gajevic operates as the manager of the Business.

5. Upon information and belief, Bagley sought to review and be involved in the operation of the Business and to be fully informed of financial affairs of the Business. Gajevic failed to provide full disclosure of the financial affairs of the Business.

6. Upon information and belief, not all income and assets of the Business have been disclosed to Bagley by Gajevic.

7. Upon information and belief, substantial assets of the Business have been diverted for the personal gain and benefit of Gajevic, others in his family or others working with him, all to the detriment of Bagley.

DEMAND FOR ACCOUNTING

Bagley, as a member of the Corporation, is entitled under law and pursuant to Section 183.0405(e)4(3), Wis. Stats., full information of all things affecting the members of the Corporation all financial affairs of the Business.

8. Bagley demands that Gajevic and Corporation provide him with full and complete access to any and all of said Business' records, accounts and that the court order compliance therewith.

BREACH OF FIDUCIARY DUTY

As a member and manager of the Business, Gajevic owes a fiduciary duty to all members of the Corporation and, in particular, Bagley.

9. Upon information and belief, Gajevic has engaged in conduct which breaches his duty of loyalty. Said conduct includes, but is not limited to, engaging in self-enrichment, putting his own interests and those of his relatives and others working with him over the Business and all members of the Corporation and failed to deal fairly with the members. Gajevic's conduct includes, among other things:

- (a) Provide full, fair and complete financial accountings of the Business;

- (b) Report any and all income that comes into the Business;
- (c) Using the Business' income and assets for personal business and self-aggrandizement; and
- (d) Failure to treat all members equally and fairly.

The conduct of Gajevic as described above was all to the damage of the Plaintiff.

UNJUST ENRICHMENT

As a result of the aforedescribed conduct of Gajevic, including his taking assets of the Business for his own use and exclusive enjoyment and enrichment, he has illegally, inappropriately engaged in unjust enrichment, all to the damage of Bagley.

The conduct of Gajevic as described above was all to the damage of the Plaintiff.

BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

For all of the reasons as stated heretofore, Gajevic has breached the implied covenant of good faith and fair dealing with Bagley. He has failed to make an appropriate, full and honest disclosure of income, assets and debts of the Business. Gajevic used Business funds for his own self-interest and the self-interests of others to the exclusion of Bagley. Gajevic has failed to disclose all income of the Business and has failed to provide true and accurate Business records to Bagley.

The conduct of Gajevic as described above was all to the damage of the Plaintiff.

VIOLATION OF SECTION 183.0402, WIS. STATS.

Pursuant to the laws of the State of Wisconsin and particularly Sec. 183.0402, Wis. Stats., no member or manager of an organization shall act or fail to act in any manner that constitutes a willful failure to deal fairly with the limited liability company and it members, enraged in conduct that the member or manage derived in improper personal profit and otherwise engaged in will misconduct.

The conduct of Gajevic as described above violated Sec. 1873.0402 Wis. Stats all to the damage of the Plaintiff.

REQUEST FOR A RECIEVER

In the event that Gajevic and the Corporation, fail to provide to full and complete accountings and access to any and all records of the Business and in such an event that it is determined that any and all assets of the Business have not been disclosed or distributed fairly, then Bagley requests that the court appoint a Receiver pursuant to Sec. 813.16, Wis. Stats., to take over the management of the Business. Said Receiver shall engage in the investigation of the finances of the Business and provide access to any and all records of the Business.

DAMAGES

As the result of any and all misconduct of Gajevic, but not limited to the violation of the duties and obligations of Sec. 183.0402, Wis. Stats., a breach of fiduciary duty owed to the Corporation and all members thereof, unjust enrichment engaged in by Gajevic and breach of the duty of good faith and fair dealing, Bagley has sustained injuries and damages, including, but not limited to, loss of fair and appropriate income from the Business, itemization of the Business and the Corporation, Bagley has suffered monetary damages in an amount to be determined by a trier of fact.

PUNITIVE DAMAGES

Upon information and belief, the conduct of Gajevic as heretofore described was done willfully and intentionally with the purpose of depriving Bagley of property to which he was entitled, causing Bagley financial harm. Due to the willful, wanton and malicious conduct of Gajevic, if so shown, Bagley demands punitive damages against Gajevic in an amount to be determined by a trier of fact.

WHEREFORE, the Plaintiff demands judgment against the Defendant Ryan Gajevic, including, but not limited to:

- (a) Requiring a full and complete accounting of the Business by the Defendants;
- (b) An order requiring the Defendants to allow full and complete access of any and all books, records and accountings of The Tap Room, LLC, to the Plaintiff;

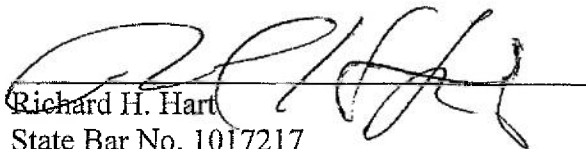
(c) Appoint a Receiver to take over the operation of The Tap Room, LLC, and the Business associated therewith.

(d) Awarding of monetary damages sustained by the Plaintiff.

(e) Awarding of punitive damages against the Defendant Ryan Gajevic in favor of the Plaintiff to be determined by a trier of fact.

Dated at Milwaukee, Wisconsin, this 19th day of July, 2021.

HART LAW OFFICE


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State Bar No. 1017217
Attorney for the Plaintiff

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