

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
22 CVS 4913

LAFAYETTE VILLAGE PUB, LLC;
JOHN BRONSON; and PAUL G.
BRONSON,

Plaintiffs,

v.

KENNETH C. BURNHAM,

Defendant.

ORDER

THIS MATTER is before the Court on its own motion. In this action, Plaintiffs have asserted, *inter alia*, various derivative claims on behalf of Lafayette Village Pub, LLC (“Lafayette”). On 2 October 2023, Plaintiffs filed a Notice of Voluntary Dismissal Without Prejudice that purported to dismiss all claims, individual or derivative, against Defendant Kenneth C. Burnham. (ECF No. 29.) However, pursuant to the North Carolina Limited Liability Company Act, a plaintiff cannot dismiss or settle a derivative claim absent the approval of the Court. *See* N.C.G.S. § 57D-8-04(a) (“A derivative proceeding may not be discontinued or settled without the court’s approval.”).

Therefore, the Court **DIRECTS** Plaintiffs to file a motion seeking the Court’s approval of the voluntary dismissal of the derivative claims brought on behalf of Lafayette, along with a supporting brief. In these filings, Plaintiffs must explain why the voluntary dismissal of the derivative claims is in the best interest of Lafayette. Plaintiffs shall have through and including **10 October 2023** to file such a motion and supporting brief. Upon its review of these filings, the Court will determine

whether a hearing is necessary. In the meantime, Plaintiffs' Notice of Voluntary Dismissal Without Prejudice shall be deemed ineffective as to the pending derivative claims in this action.

SO ORDERED, this the 3rd day of October, 2023.

/s/ Mark A. Davis

Mark A. Davis

Special Superior Court Judge
for Complex Business Cases