

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

HECTOR AND ROSA PINEDA,)

Plaintiffs,)

v.)

C.A. No. 08C-01-226-JRJ

JEFFREY STEINBERG, ROBERT)

PETERSON, AND ALL MY SONS)

MOVING AND STORAGE OF)

SALT LAKE CITY, INC.)

AND NOW TO WIT, this 29th day of October, 2008, the Court having heard and duly considered Defendant's Motion to Dismiss for Failure to State a Claim Upon Which Relief May be Granted, and Plaintiffs' opposition thereto, **IT APPEARS THAT:**

1. On May 11, 2001, Plaintiff Hector Pineda and Defendant All My sons Moving and Storage of Salt Lake City, Inc. (the "Corporation") entered into an employment agreement (the "Employment Agreement"), which governed Hector Pineda's employment with the Corporation. Hector Pineda served as President, Secretary, and Treasurer of the Corporation.
2. On February 5, 2007, the parties entered into a Stock Purchase Agreement (the "Stock Agreement").

3. Under the Stock Agreement, Hector and Rosa Pineda agreed to sell, and Jeffrey Steinberg agreed to buy, eighty non-voting shares of Corporation Common Stock.
4. The Stock Agreement contains a general release (the “General Release”) which reads:

KNOW ALL MEN BY THESE PRESENTS that the undersigned, Hector Pineda and All My Sons Moving & Storage of Salt Lake City, Inc., a Delaware Corporation (the “Corporation”) hereby agree as follows:

Release by Hector Pineda. Hector Pineda, for and in consideration of the sum of ten dollars (\$10.00) and other good valuable consideration, now, finally and forever hereby waives, releases and discharges the Corporation, and its, current and former officers, shareholders, associates, employees, successors and assigns of each of them and all persons acting by, through, for or in concert with any of them, from any and all causes of action, charges, complaints, suits, debts, obligations, claims, sums of money, controversies, damages, contracts, promises, representations, agreements, damages, demands, covenants, fees (specifically including attorney fees), costs and expenses, of every kind, legal and equitable, known and unknown, foreseen and unforeseen, that Hector Pineda has or may hereafter have against the Corporation or its current and former officers, shareholders, associates, employees, successors and assigns.

5. On April 30, 2008, Hector and Rosa Pineda filed suit against the defendants for breach of the Stock Agreement and fortuitous interference.

6. The defendants have moved to dismiss pursuant to Del. Super. Ct. R. Civ. P. 12(b)(6), claiming that Hector Pineda relinquished the ability to bring this action against Robert Peterson and the Corporation by executing the General Release. The plaintiffs argue that the General Release does not bar claims that were non-existent at the time the Release was executed.
7. The General Release is clear and unambiguous. The General Release expressly provides that Hector Pineda “finally and forever” releases the Corporation and its directors for “any and all causes of action, charges, complaints, suits, debts, obligations, claims, sums of money, controversies, damages, contracts, promises, representations, agreements, damages...of every kind, legal and equitable, known and unknown, foreseen and unforeseen....”¹
8. While the General Release, by its express terms, bars claims that were “known or not known” at the time it was executed, it does not bar claims that were non-existent at the time it was executed. The cases relied upon by Defendants are distinguishable on this point.²

¹ Motion of Defendants Robert Peterson and All My Sons Moving and Storage of Salt Lake City, Inc. to Dismiss for Failure to State a Claim Upon Which Relief May be Granted, Docket Item (“D.I.”) 7 at 2.

² See D.I. 10 at 203; D.I. 7 at 4.

9. The Complaint alleges that the defendants undertook certain wrongful actions after the General Release was executed. As plaintiffs point out, to hold that the General Release bars plaintiffs' claims under these circumstances would give defendants *carte blanche* to commit future wrongdoing against plaintiffs.³
10. According to *Williston*, "[a] general release covers only those matters about which there was some dispute, and not a future claim."⁴ A general release encompasses claims unknown at the time of execution, "so long as they arose prior to the date of the release."⁵

WHEREFORE, IT IS HEREBY ORDERED that the defendants' Motion to Dismiss is **DENIED**.

IT IS SO ORDERED.

Jurden, J.

cc: Matthew M. Carucci, Esq.
Mary Elizabeth M. Browder, Esq.
Michael C. Hochman, Esq.

³ See Plaintiffs' Response to Motion to Dismiss, D.I. 10 at 2, 3. ("If one extends Defendants' argument to its logical conclusion, a future tortfeasor need only include a release in a contract in order to be free to commit any wrongdoing he or she desires." "Defendants seek immunity under a contract after being charged with improperly interfering with that contract's terms.")

⁴ 29 Richard A. Lord, *Williston on Contracts* § 73.4 (4th ed.).

⁵ *Id.*; See also *Medtronic Ave., Inc. v. Advanced Cardiovascular Systems, Inc.*, 247 F.3d 44, 58 (3d Cir. 2001). ("[A] release usually will not be construed to bar a claim which had not accrued at the date of its execution . . .")