

*“Standstill Agreement”*  
*Steps to Resolving a Legal Dispute (Yildiz v. SuperStore)*

**Confidential Packet  
for Terry Banks, Esq.  
(Counsel for Defendant SuperStore)**

## **Banks, Terry**

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**From:** Bergermann, Roland  
**Sent:** Monday, March 18, 2024 11:55 AM  
**To:** Banks, Terry  
**Subject:** SuperStores #31099 -- Standstill Agreement

Terry,

Sorry to have to do this, but I need you to handle a meeting for me next Monday. Cheryl Wilkins in the tax dept suggested you. One of our biggest clients, SuperStore, has a possible lawsuit involving a high placed executive. The lawyers for the executive and I were going to meet to discuss drafting a standstill agreement concerning her possible lawsuit. I know that standstill agreements are not terribly common, but it could be a good move here. I have attached two examples from previous matters that we did with that same law firm that might be useful, although you will have to re-work the language to fit this case.

I have also attached my letter that is going out today to Ashwin Desai, general counsel at SuperStore – we met this morning. He has provided some initial parameters on how to craft the standstill agreement, and he will be available to meet with you before the standstill negotiations begin. In addition, I attached the memo that the executive (Helena Yildiz) sent to the CEO about her allegations with attachments.

I have to be on a plane the morning of the 25<sup>th</sup> to Beijing for an arbitration that just came up on another matter, so you are on your own. I will see if I can track down some junior partners who have been working on this case. They could be around to help, if you need any assistance or have questions. Ashwin will definitely be around as well, although he will not be attending the negotiations.

### **Roland Bergermann**

Garcia, Bergermann & Ali  
618 2<sup>nd</sup> Avenue North  
Minneapolis, MN 55402

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**From:** Banks, Terry  
**Sent:** Wednesday, May 6, 2021 1:17 PM  
**To:** Bergermann, Roland  
**Subject:** Thanks!

Mr. Bergermann,

It was great meeting you at the associate's luncheon. Your stories about rafting in Costa Rica were quite interesting. Please let me know if you ever need any help on anything in litigation – I am trying to broaden my scope of work, although I do enjoy my current transactional work.

Very truly yours,

Terry Banks, Esq.

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Law Offices of García, Bergermann & Ali

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618 2<sup>nd</sup> Avenue North  
Minneapolis, MN 55402  
Telephone Number: 612-555-1122  
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March 18, 2024

Ashwin Desai  
General Counsel and Chief Legal Officer  
SuperStore Corp.  
1 SuperStore Way  
Circle Mountain, MN 55422

Re: Potential Legal Claims of Helena Yildiz

Dear Ashwin:

It was good seeing you this morning. Here is a quick summary of our conversation.

As we discussed, you have authorized my firm to negotiate a “standstill” agreement with counsel for Helena Yildiz. The purpose of the standstill agreement is to suspend all legal action, including the possible filing of a complaint by Ms. Yildiz, while we investigate her allegations. We will not be discussing or attempting to settle her claims at this point, only agreeing to suspend litigation during a specific amount of time to be negotiated by the parties. It is not the same as a settlement agreement and so Ms. Yildiz will not waive her right to assert a legal claim against SuperStore in the future just because she has signed the standstill agreement. The standstill agreement raises a number of other possible issues, which we may have to resolve, including the following:

First, we will need to include some sort of confidentiality provision so that the allegations and the investigation are kept quiet. You have indicated to me the company’s strong interest in ensuring the broadest scope possible for that confidentiality provision. We may, of course, need to provide exceptions for counsel and other key individuals, who may be required to complete the investigation (e.g., possible experts or other consultants).

Second, we will need to include a time frame for the standstill agreement. I agree with you that it is in the company’s best interest to have no expiration on the agreement, but we may have to live with a firm deadline so long as it provides a sufficient amount of time to complete the investigation (my estimate is 3 months, but we can always accelerate the process, if need be).

Ashwin Desai  
March 18, 2024  
Page 2

Third, Ms. Yildiz will undoubtedly want to continue working in her current position and may also want to receive payment on some or all of the three accounts mentioned in her memorandum. You have indicated a great deal of flexibility here to secure the standstill agreement, but we will do our best to protect the company's interests in paying as little as possible to her as we can. We may be able to save the company some money, at least at this point. During our discussions with Ms. Yildiz' counsel, it may be worth exploring your idea of a "sabbatical" for Ms. Yildiz where she would be paid half her current salary during the standstill period without continuing her job responsibilities, although as I have mentioned I do not believe Ms. Yildiz will have much incentive to accept such a proposal. As for the alleged underpaid commissions, there is no reason that I see to pay her for the three accounts she mentioned, or any other additional amount, unless absolutely necessary. You have instructed that we could offer some payment of the alleged underpaid commissions if Yildiz will accept less than her full salary during the standstill period.

Fourth, naturally we will include the necessary boilerplate items, including a provision ensuring that all conversations between counsel during the investigation period are protected under Rule 408, and that none of our defenses are waived by entering into this agreement, as you suggested.

Please confirm that you are still available for our meeting with Ms. Yildiz next week. I do not expect you to participate directly in the negotiations, but I would like you available on site so that we can keep in touch during discussions.

Very truly yours,

García, Bergermann & Ali

*Roland*

Roland Bergermann, Esq.

## **SUPERSTORE INTERNAL MEMORANDUM**

**-- CONFIDENTIAL --**

**TO: Vivian Turner, Chief Executive Officer**  
**CC: Ashwin Desai, Senior Counsel**  
**FR: Helena Yildiz, Vice President of Sales, North America**  
**DATE: December 29, 2023**  
**RE: Commissions**

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This memorandum memorializes our conversation this afternoon concerning the systematic and deliberate underpayment of my commission over the past several years. I am glad that I was finally able to get your attention on this important matter.

As we discussed, I have been made aware that for as long as I have been Vice President of Sales for SuperStore, management has been undervaluing my commission by at least 25%. The two emails that I share with you from Otis Estridge, associate finance director, discuss the pattern.

Two recent deals for key customers provide clear evidence. As Mr. Estridge's emails show, I am due at least another \$12,000 from the Enzymatic Polisher deal and another \$7,500 from the Stanza Chicken deal. As the emails state, it is apparent that this pattern of underpayment of my commission has been happening since I first started in this position. My preliminary calculations indicate that I have been deprived of at least \$300,000 due to this undervaluing. It also appears that other sales executives have been deprived of their full commission.

As you know, in addition to my regular salary of \$175,000 per year, I usually make another \$100,000 to \$200,000 in commissions each year. 25% underpayment on those commissions adds up fast (especially over my nine years in this job).

I intend to file a lawsuit to collect on these unpaid sums. I will also talk to others at SuperStore and explore whether a class action might be most appropriate.

Please direct all further communication on this matter to my counsel, Dmitri Hassan ([www.hassanlawoffice.com](http://www.hassanlawoffice.com)). I will continue, of course, to do my job, and I expect future commissions to be calculated properly (and documented clearly).

**Estridge, Otis**

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**From:** Estridge, Otis  
**Sent:** Thursday, December 20, 2023 10:14 AM  
**To:** Yildiz, Helena  
**Cc:** Estridge, Otis  
**Subject:** Commission Calculations -- Another Thought

One more thing – it appears that the calculation formula that we have been using since Q2 is incorrect. This could mean as much as 10% more due to you on Stanza.

OE

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## **Estridge, Otis**

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**From:** Estridge, Otis  
**Sent:** Thursday, December 20, 2023 10:11 AM  
**To:** Yildiz, Helena  
**Cc:** Estridge, Otis  
**Subject:** Commission Calculations

Ms. Yildiz,

As I mentioned on the phone, these commissions are very difficult to measure accurately at this point, given the inscrutable compensation matrix and the many changes that have taken place during the time period of these sales. So right now my thinking is something like the following:

1. Something approaching \$12,000 from the Enzymatic Polisher deal, depending on how much work Charlene put into it and when the final check cleared (you will need to check with the mother ship on those particulars).
2. Between \$4,000 and \$8,000 on the Boulware Shipping deal, depending on how we interpret the contract extension and whether they were to pay all of it upfront.
3. Between \$6,500 and \$7,500 from the Stanza Chicken deal, depending on when your team took over the discussions.

My last day is the 24<sup>th</sup> so please let me know if you have any questions before then. I have really appreciated working with you. Happy holidays.

All the best,

OE

"There are only two ways to live your life. One is as though nothing is a miracle. The other is as though everything is a miracle."  
-Albert Einstein

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## STANDSTILL AGREEMENT

THIS **STANDSTILL AGREEMENT** ("Agreement") is dated December 9, 2016 ("Effective Date") by and between Johnny's Fish Fry, LLC ("Johnny's") and Al's Repair, Inc. ("Al's"), collectively ("the Parties").

### Background

- A. Johnny's alleges concerns regarding repairs that Al's made to Johnny's restaurant (hereafter "the action").
- B. Al's alleges full performance of satisfactory repairs and further alleges that Johnny's has not paid Al's the full amount due for Al's services.
- C. Johnny's and Al's wish to suspend any formal legal actions and participate in an informal exchange of information and settlement negotiations for a period of 90 days under the terms set forth below.

### Terms

- 1. Negotiation Process. The Parties shall participate in an informal exchange of information and settlement negotiations for a period of 90 days beginning Monday, December 11, 2016, until Saturday, March 2, 2017 (the "Negotiation Period").
- 2. No Court Stuff. During the Negotiation Period, the Parties shall not file new or pursue pending discovery requests or discovery-related motions. During the Negotiation Period, the Parties shall not commence any new litigation concerning the matters at issue in this action or initiate new activity in this action.
- 3. Some Money. Within 10 days of signing this agreement, Johnny's shall make a good faith payment of \$650 to Al's by cashier's check. This amount shall be applied against any claims that Al's has against Johnny's for overdue invoices.
- 4. We Can Still Sue Clause. During the Negotiation Period, no substantive or procedural rights or duties of any Party will change. All statutes of limitations, laches, waiver, estoppel, or other defenses or causes of action will be tolled during the Negotiation Period. Any cause of action, defense, contention, argument, privilege or legal right that existed prior to the Negotiation Period will be preserved, completely and without limitation, but such cause of action, defense, contention, argument, privilege or legal right will not be enhanced or diminished during or because of the Negotiation Period.
- 5. Keeping It Between Us. All settlement-related communications between the Parties shall be Confidential and subject to Rule 408 of the Minnesota Rules of Evidence. For purposes of this agreement, "Confidential" means all information that each party has

obtained in anticipation of or in connection with the investigation described in this agreement including, but not limited to, current and prospective repair schedules, plans or strategies, customer lists, bank information, passwords and security practices and procedures, databases, and data processing methodologies, trade secrets and any other proprietary, confidential or secret aspects of the parties' business or personal life.

6. No Waivers of Attorney-Client Communication Protection. The Parties recognize that in exploring the possibility of a settlement, they may share documents and information upon which a privilege claim might otherwise be based. It is expressly understood that such sharing of information for dispute resolution purposes is not intended by any Party to constitute a specific, general or subject matter waiver of any privilege, whether with respect to third parties or with respect to any Party in this action. This Agreement does not confer privileged status to any document or information that is not otherwise privileged.
7. Boilerplate Stuff.
- a. This Agreement shall be governed by the laws of Minnesota. The Parties consent to venue in Washington County, Minnesota in the event that this Agreement itself becomes the subject of dispute between the Parties.
  - b. This Agreement may be executed in duplicate counterparts each of which shall be deemed an original.
  - c. No amendments or variations of the terms of this Standstill Agreement shall be valid unless made in writing and signed by all Parties hereto.
  - d. In the event any proceedings of any type or kind shall occur in which this Agreement or its terms shall be reviewed, construed, or brought into issue in any manner, the Parties hereby agree that this Standstill Agreement shall be construed as jointly written and typed by the Parties.

AGREED:

Johnny's Fish Fry, LLC

Al's Repair, Inc.

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title/position

\_\_\_\_\_  
Title/position

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## STANDSTILL AGREEMENT

1. This STANDSTILL AGREEMENT, effective October 2, 1998, is made by and between Sylvester Felineous ("Sylvester") and Vroom Motel ("Vroom").
2. Sylvester paid Vroom \$300 to stay in Vroom's motel (room 611) for the entire month of March 1997 in order to view the fall colors and conduct various phenology experiments.
3. Sylvester alleges that during his stay at Vroom, he was bombarded with numerous, large and unidentifiable insects, which diminished the value of his stay.
4. Sylvester and Vroom shall suspend any and all legal action against each other for a period of 120 days in order to investigate the claims alleged by Sylvester.
5. For purposes of this agreement, "Confidential Information" means all information that each party has obtained in anticipation of or in connection with the investigation described in this agreement including, without limitation, current and prospective maintenance schedules, plans or strategies, customer lists, bank information, passwords and security practices and procedures, advertising and pricing plans or strategies, databases, and data processing methodologies, algorithms, margins and expense levels, food and beverage service preferences, trade secrets and any other proprietary, confidential or secret aspects of the parties' business or personal life.
6. The parties shall maintain in confidence all Confidential Information (as defined in paragraph 5 above) exchanged under the terms of this agreement. The parties may disclose Confidential Information to their legal counsel but shall not disclose to any other individuals without written consent from the other Party.
7. This Agreement shall be governed by and construed under the laws of the State of Minnesota applicable to contracts executed and intended to be performed entirely within the State of Minnesota by residents of such State. The parties submit and agree to be subject to the exclusive jurisdiction of the Federal and state courts in Minneapolis, Minnesota in any suit or proceeding arising out of or relating to this agreement. In any suit or proceeding to enforce rights under this agreement, the prevailing party shall be entitled to recover costs and attorneys' fees.
8. The 120 day period governed by the terms of this agreement may be extended further by written agreement of both parties.
9. This agreement prevails over prior communications regarding the subject matter of this agreement and any and all possible, whether expressed or implied, claims between the parties hereto or their representatives. This agreement was drafted and approved by counsel for the parties, and there shall not be a presumption of construction against any party hereto.
10. This agreement is an integrated agreement and contains the entire agreement regarding the matters herein between the parties hereto, and except as set forth herein, no representatives, warranties or promises have been made by any party hereto.

Dated: \_\_\_\_\_

Sylvester Felineous

By \_\_\_\_\_

Dated: \_\_\_\_\_

Vroom Motel

By \_\_\_\_\_