

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE  
CIVIL ACTION NO. 3:10-CV-753-H

PAMELA L. LUEBBE

PLAINTIFF

V.

STEPHENS' DRUGS, INC. and GARY GOBLE

DEFENDANTS

**MEMORANDUM OPINION AND ORDER**

Plaintiff, Pamela L. Luebbe, has moved for summary judgment on the issue of liability for her contractual and ERISA claims against Defendants. As grounds, Plaintiff asserts that Defendants have never answered the complaint nor have they denied the allegations of it.

As to the claim against Goble individually, Mr. Goble has apparently filed for bankruptcy and Plaintiff has filed an adversary motion in that case. Thus, absent further argument, a judgment against Goble here would be inappropriate.

The claim against Stephens' Drugs is another matter. The corporate Defendant has neither answered the complaint nor asserted a defense to the ERISA and contractual claims against it. This is not surprising since the corporate Defendant has virtually acknowledged its wrongdoing by repaying certain amounts to Plaintiff's retirement account. Consequently, it has asserted no reason for the Court to deny Plaintiff's summary judgment as to liability on its ERISA or contract claims.

Defendant has asserted that its subsequent actions have fully reimbursed Plaintiff for the losses she incurred due to Defendant's actions. However, Plaintiff disputes that Defendant's subsequent actions have made her whole. The Court will set a hearing in January to determine the amount of damages, if any, are due on the ERISA and contract claims.

Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that Plaintiff's motion for summary judgment in her ERISA and contract claims is SUSTAINED.

The Court will set a hearing to determine the amount of damages due, if any.

cc: Counsel of Record