

STATE OF MICHIGAN
COURT OF APPEALS

PAMELA COATES,

Plaintiff-Appellee/Cross-Appellant,

v

BASTIAN BROTHERS, INC., BENTLEY &
ASSOCIATES, INC., VALLEY LITHOPLATE
CORPORATION, JOHN R. WAUGH, JEFFREY
M. WAUGH, JOHN F. WAUGH, and ELNOR
WAUGH,

Defendants-Appellants/Cross-
Appellees.

FOR PUBLICATION

August 30, 2007

9:00 a.m.

No. 266046

Saginaw Circuit Court

LC No. 03-050378-CZ

Official Reported Version

Before: Smolenski, P.J., and Saad and Wilder, JJ.

SAAD, J. (*concurring in part and dissenting in part*).

I concur with the majority regarding all issues except its holding regarding the enforceability of the noncompetition agreement. Because defendants failed to preserve this issue, I would hold that defendants waived their claim concerning the noncompetition agreement. However, inasmuch as the majority addresses this issue despite defendants' waiver, I write separately because I disagree with the majority's holding that the noncompetition provision is enforceable. Because defendants breached the just-cause provision of the employment agreement, I would hold that the plaintiff is not bound by the noncompetition provision of the employment agreement. The employer should not be allowed to wrongfully terminate plaintiffs' employment and then gain by this wrongful conduct the advantage of preventing the wrongfully discharged employee from securing employment, in her field, with defendants' competitor.

/s/ Henry William Saad