

# Smyth Jewelers accuses former employees of trade-secret violations in lawsuit



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**S**myth Jewelers, a more than century-old retailer with three Baltimore-area stores, has filed a lawsuit accusing former employees of stealing confidential lists of customers, vendors and employees to start a competing jewelry business.

In a lawsuit filed Wednesday in U.S. District Court in Baltimore, Albert S. Smyth Co. seeks damages from Meritage Fine Jewelers, a business started by Smyth's former chief operating officer, former vice president of operations and two other former employees. All are named as defendants.

Smyth alleges that Mark Motes, Smyth COO from 2007 through last year, and John Jackson III, former vice president of operations, took confidential company information with them when they left Smyth in November.

According to the lawsuit, Jackson took control of an online company Dropbox account with a file of nearly 50,000 Smyth customers and their contact information and purchasing history. Other folders in the account list employees' salaries, Smyth business plans and vendor pricing and purchase plans, the lawsuit says.

"They've got everything they need to replicate our business," said Steve Fedder, an attorney for Smyth.

Meritage plans to open a store this summer in Lutherville in a strip center on the former site of Watson's Garden Center, according to its Facebook page. That location is less than a mile from Smyth's flagship store on York Road in Timonium.

An attorney representing Meritage and one defendant, Jackson, the former operations VP, declined to comment on the lawsuit Monday. Motes could not be reached.

The lawsuit also names Mason Motes, a former Smyth employee, and Brian McCullough, described in court documents as a former leading sales person for Smyth. Mason Motes and McCullough could not be reached Monday.

Mark Motes is accused of breach of contract for allegedly violating a noncompete agreement in his employment contract, according to the lawsuit. Motes was prohibited from soliciting customers or employees or opening a competing business in the state for two years after leaving the company, the lawsuit says.

That allegation was part of a previous lawsuit Smyth filed against only Motes. After the original case was moved from state court to federal court, Smyth learned of the alleged violations of state and federal trade-secret protection laws and added defendants, Fedder said.

"The actions of misappropriation of trade secrets were both willful and malicious, done with the intent of using such trade secrets in defendants' competing jewelry business," the current lawsuit says.

Smyth says its business will be "irreparably injured" if Meritage uses the information on its customer, vendor or employee lists. The retailer is asking the court to order the defendants not to do business with or contact its customers or vendors or hire Smyth employees.

In November, Smyth announced that members of the family that owns the business had stepped in to run the company. Tom Smyth, a third-generation family member, heads the company as co-president along with his cousins, also co-presidents, Bob Smyth and Leonard "Buzz " Getschel. Members of the fourth generation have executive roles as well, including Bob Yanega who was promoted to CFO.

Tom Smyth had described the departure of Motes and Jackson as "a friendly departure."

Smyth said he and his cousins had run the company for years before bringing in Motes more than 19 years ago and Jackson more than 16 years ago, allowing the Smyth cousins to step back from day-to-day operations.

In 2007, Motes entered into an employment agreement with Smyth that made him a 25 percent partner in all operating entities with a base annual salary of \$600,000, according to the suit. During the latter years of his employment, he convinced the board of directors to enter into new business ventures that proved to be unprofitable, including one, TDS, that lost more than \$4.8 million in three years and was forced to close, the suit says.

Smyth alleges in court documents that Motes began spending more time on new business entities rather than on the Timonium flagship store, and, as a result, the store began losing money in 2013. It lost nearly \$5 million from 2013 to 2015, the lawsuit said.

Under the Motes-led management team, Smyth opened 11 Pandora stores and eight gold buying locations, all of which have since been sold. The company now runs three Smyth stores, in Timonium, Ellicott City and Annapolis.

Albert Smyth founded the jewelry business in Baltimore in 1914.

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