

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

**JACKIE LYSENGEN, on behalf of the
Morton Buildings, Inc. Leveraged Employee
Stock Ownership Plan, and on behalf of a
class of all other persons similarly situated,**

Plaintiff,

v.

**ARGENT TRUST COMPANY,
EDWARD C. MILLER, GETZ FAMILY
LIMITED PARTNERSHIP, ESTATE OF
HENRY A. GETZ, and ESTATE OF
VIRGINIA MILLER,**

Defendants.

Case No. 1:20-cv-01177-MMM-JEH

PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT

Please take notice that Plaintiff Jackie Lysengen (“Plaintiff”), pursuant to Fed. R. Civ. P. 56, hereby moves for Partial Summary Judgment in the above captioned matter on three Count I prohibited transaction claims brought under Section 406(a) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), 29 U.S.C. § 1106(a); on two affirmative defenses asserted in Defendants’ answers (Dkt. 58, 59, 126, 127, 128) to the First Amended Complaint (“Complaint” or “FAC”) (Dkt. 57); and on available remedies, by which Plaintiff seeks entry of a judgment that she is entitled to pursue remedies for the entire Employee Stock Ownership Plan (ESOP) as a matter of law.

For the reasons stated in Plaintiff’s Memorandum of Law in Support of Motion for Partial Summary Judgment and those that may be raised in her reply brief and any hearing on this

matter, Plaintiff seeks a summary judgment that she has proved all the elements of the following claims:

- 1) Argent Trust Company's ("Argent") authorization of the Morton Buildings, Inc. Leveraged Employee Stock Ownership Plan's (the "Plan") purchase of Morton Buildings, Inc. ("Morton") stock from parties in interest in the May 8, 2017 ESOP Transaction was prohibited by ERISA § 406(a)(1)(A), 29 U.S.C. § 1106(a)(1)(A);
- 2) Argent's authorization of the Plan's loans from Morton and Henry A. Getz in the ESOP Transaction was prohibited by ERISA § 406(a)(1)(B), 29 U.S.C. § 1106(a)(1)(B); and
- 3) Argent's authorization of the transfer of assets of the Plan to party in interest selling shareholders as payment for Morton stock in the ESOP Transaction was prohibited by ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D).

There are no genuine disputes of material fact on any elements of these claims.

Plaintiff also moves for summary judgment with respect to the Second Affirmative Defense asserted in Argent's Answer; the Ninth Affirmative Defense asserted in Getz Family Limited Partnership's Answer; and the Second Affirmative Defense asserted in Edward C. Miller, Getz Family Limited Partnership, Estate of Virginia Miller, and Estate of Henry A. Getz's Answers. Plaintiff also moves for summary judgment that plan-wide relief is available on her claims.

Dated: March 17, 2023

Respectfully submitted,

BAILEY & GLASSER LLP

/s/ Patrick O. Muench

Patrick O. Muench

318 W. Adams St., Ste. 1512

Chicago, IL 60606

Telephone: (312) 500-8680

Facsimile: (304) 342-1110

pmuench@baileyglasser.com

Gregory Y. Porter
Ryan T. Jenny
Laura Babiak
1055 Thomas Jefferson St., NW, Ste. 540
Washington, DC 20007
Telephone: (202) 463-2101
Facsimile: (202) 463-2103
gporter@baileyglasser.com
rjenny@baileyglasser.com
lbabiak@baileyglasser.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that on March 17, 2023, a true and correct copy of the foregoing document was filed with the Clerk of Court using the CM/ECF system, which will send electronic notification of such filing to all counsel of record.

/s/ Patrick Muench