

Ex-partners, Atlanta restaurateur Kevin Rathbun in legal dispute over partnership buyout

Atlanta celebrity chef and restaurateur Kevin Rathbun and two of his former partners are in a legal dispute over the terms for dissolving their partnership.

In a complaint filed Feb. 13 in Fulton County Superior Court, former Rathbun partners Cliff Bramble and Kirk Parks contend their decision to leave management roles in some of Rathbun's restaurants did not trigger a buyout of their ownership.

Bramble and Parks are represented by Samuel Lyddan and David Marmins at Arnall Golden Gregory LLP, which provided a copy of the complaint to Atlanta Business Chronicle.

A lawyer for Rathbun, who helped draft the restaurant operating agreements, said that any event that resulted in a termination of employment of an active partner - whether voluntary or involuntary - would result in a capital buyout by either Rathbun or the company.

Rathbun plans to assert counterclaims, said another lawyer handling the litigation for the restaurateur.

In the complaint, Bramble and Parks ask the court to block Rathbun from exercising any purchase option to buy their respective ownership interests in Kevin RathbunSteak LLC (KRS), Krog Bar LLC, SteakBar LLC and 154 Krog Street LLC. They also want the court to declare Rathbun's "purported assignments of interest of Bramble and Parks' interests in the Companies are void."

Bramble, Parks, and Rathbun own varying portions of each of the companies, which operate successful restaurants in and around Atlanta, according to the complaint. Since 2009, Bramble and Parks, in addition to being members in the companies, were also employed and paid a salary by KRS, it said.

Parks in December 2016, and Bramble in December 2017, resigned their employment with KRS, according to their complaint.

In January 2018, Rathbun notified Bramble and Parks that, as a result of their resignations, he intended to purchase their membership interests in KRS, Krog Bar, and SteakBar under termination provisions contained in each of the companies' operating agreements, according to the document.

Rathbun's attorney sent a second letter and attached executed checks to buy out Bramble and Parks' shares in KRS, Krog Bar and SteakBar, the complaint said. The check amounts were "significantly below the fair

market value of these entities," it said.

Bramble was issued a check for \$513,312 and Parks one for \$193,941 "which purported to represent Bramble's and Parks' capital account balances and their share of the 2017 profits generated by those entities," the complaint said.

Rathbun "also executed what Rathbun claimed to be assignments of interests on behalf of Bramble and Parks indicating that Bramble and Parks had transferred their shares in KRS, Krog Bar, and SteakBar to Rathbun," it said.

"Rathbun had no right under the Companies' operating agreements to purchase Bramble and Parks' shares in the Companies. Alternatively, Rathbun violated the procedures set forth in each operating agreement for purchasing another members' shares.

Accordingly, Rathbun's "assignments of interest" on behalf of Bramble and Parks transferring Bramble and Parks' interests in the Companies to Rathbun are void, and Bramble and Parks remain members and owners in each of the Companies."

Rathbun's attorney, George Menden, founding partner of MendenFreiman LLP, said he helped draft the operating agreements for the restaurant companies. He had not seen the complaint and did not know the status of the litigation.

Bramble took himself off of the company payroll, Menden said. Ending active employment with the company was the event that triggered the buyout, he said.

The intent of the operating agreement between the three partners was that they would be on the job every day doing the work to operate the restaurants, he said.

"We have followed the exact formula outlined at the time they came together and formed the companies that operate these restaurants," Menden said. "It appears now they are unhappy with the agreements established at outset of their partnership.

"We are not quite sure why they are unhappy. We followed agreements they originally entered into," he said.

Alexa Ross, attorney at the **Robbins Firm**, is handling the litigation for Rathbun. She notes that the lawsuit does not seek monetary recovery from Rathbun: "There is no legitimate claim for monetary recovery.

"The lawsuit asks the court to declare that Kevin Rathbun cannot buy out their minority ownership interests. But both want to be bought out," she said in an email to Atlanta Business Chronicle.

"This is where the rubber meets the road: The plaintiffs want more for their minority interests than the agreements entitle them to be paid.

"These two behind-the-scenes minority partners have profited handsomely from Kevin Rathbun's talent, business acumen, and sweat. They want more. Kevin Rathbun has offered to pay exactly what the agreements set as the purchase price.

"Kevin Rathbun prefers to expend his energies building and growing businesses, rather than litigating. But he will not allow his minority interest holders to ignore the legally binding agreements they entered (which by any measure are generous to the minority interest holders)," Ross said, and he intends to assert

counterclaims.

Rathbun's take on modern American cuisine became a hit locally and then nationally, which, along with a win on "Iron Chef America" placed him in the culinary spotlight. His 30 years in the restaurant business, included serving as chef at Baby Routh in Dallas when it received the DiRona award for dining excellence. He landed the chef's position at Nava in Atlanta, whose Southwestern cuisine became a hit, earning consistent rankings as one of the city's top five restaurants and eventually Esquire Magazine's "Top New Restaurant." Rathbun also was corporate chef of the Buckhead Life Restaurant Group, which included Nava, BluePointe, Kyma and The Buckhead Diner.

In 2004, Rathbun opened his namesake restaurant, Rathbun's, then Krog Bar in 2005 and Kevin Rathbun Steak in 2007.