

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

STEVES AND SONS, INC.,

Plaintiff,

v.

Civil Action No. 3:16cv545

JELD-WEN, INC.,

Defendant.

ORDER

The jury's verdict (ECF No. 1022) on COUNT ONE found that JELD-WEN, Inc. had violated Section 7 of the Clayton Act and awarded antitrust damages to Steves and Sons, Inc. in the amount of \$58,632,454.00 (which when trebled is \$175,897,362.00), and, the jury's verdict on COUNT TWO awarded breach of contract damages to the plaintiff in the amount of \$9,933,602.00, and the Court has held that divestiture is an appropriate remedy in a decision that, under Brown Shoe Co. v. United States, 370 U.S. 294 (1962), may be appealed, even though divestiture, if affirmed as a proper remedy, will occur after appeal. Steves and Sons, Inc., by counsel, has agreed that it is not entitled to both remedies. JELD-WEN, Inc. has represented that it intends to appeal the jury's verdict and the divestiture order.

The rather unusual circumstances of this case (the award of a monetary remedy for the antitrust violation and the grant of the

equitable remedy of divestiture that is amenable to appeal before it is implemented) raises the issue how to formulate a judgment order that permits appeal of the jury's verdict and the divestiture order, but that assures that there will be no double recovery, while preserving the right to recover the monetary award (if affirmed on appeal) if the divestiture order is not affirmed on appeal.

The views of the parties will be helpful to the formulation of an appropriate judgment order, and, therefore, it is hereby ORDERED that the briefing will proceed on the following schedule:

Plaintiff's Opening Brief:       October 16, 2018

Defendant's Response Brief:     October 30, 2018

Plaintiff's Reply Brief:         November 7, 2018

Attached hereto are drafts of a monetary judgment order and a divestiture order for consideration by counsel when preparing their briefs. Neither Order will be entered until after the parties' views have been considered.

It is so ORDERED.

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/s/ REP  
Robert E. Payne  
Senior United States District Judge

Richmond, Virginia  
Date: October 5, 2018