Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D25763
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_____AD3d_____ Argued - December 3, 2009

JOSEPH COVELLO, J.P.
DANIEL D. ANGIOLILLO
PLUMMER E. LOTT
SHERI S. ROMAN, JJ.

2008-09678 DECISION & ORDER

Charles E. Quick, appellant, v Edward Quick, Jr., respondent, et al., defendant.
(Action No. 1)

Edward Quick, Jr., respondent, et al., plaintiffs, v Charles Quick, appellant, et al., defendants.
(Action No. 2)

(Index Nos. 8693/07, 521/08)

James F. O'Brien, New York, N.Y., for appellant.

Jacobowitz and Gubits, LLP, Walden, N.Y. (Robert E. DiNardo and Carmee G. Murphy of counsel), for respondent.

In two related actions, inter alia, for a judgment declaring the parties' rights and obligations under a partnership agreement (Action No. 1), and to dissolve certain corporations affiliated with the partnership (Action No. 2), which were joined for trial, Charles E. Quick, the plaintiff in Action No. 1 and a defendant in Action No. 2, appeals from an order of the Supreme Court, Orange County (Giacomo, J.), dated September 8, 2008, which granted that branch of the motion of Edward Quick, Jr., a defendant in Action No. 1 and a plaintiff in Action No. 2, which was for a preliminary injunction, inter alia, compelling Quick Roll Leaf Mfg. Co., Inc., a defendant in Action No. 2, to provide Edward Quick, Jr., with compensation equal to that received by Charles E. Quick.

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ORDERED that the order is reversed insofar as appealed from, on the law, with costs, and that branch of the motion of Edward Quick, Jr., which was for a preliminary injunction is denied.

Edward Quick, Jr., a defendant in Action No. 1 and a plaintiff in Action No. 2, sought to compel his receipt of a salary equal to that of Charles E. Quick, the plaintiff in Action No. 1 and a defendant in Action No. 2 (hereinafter the appellant). In support of his request for, inter alia, injunctive relief, Edward Quick, Jr., argued that his claim was meritorious, and that absent injunctive relief, he would suffer irreparable harm. Specifically, he claimed that if injunctive relief were not granted, his ability to maintain Action No. 2 and defend himself in Action No. 1 would be financially hampered, he would be discouraged from working, and the payment of excess salary to the appellant would adversely affect the cash flow of Quick Roll Leaf Mfg. Co., Inc.

The Supreme Court erred in awarding injunctive relief to Edward Quick, Jr. A preliminary injunction may not be obtained where, as here, the irreparable loss claimed is economic (*see Di Fabio v Omnipoint Communications, Inc.,* 66 AD3d 635; *Mar v Liquid Mgt. Partners, LLC,* 62 AD3d 762, 763; *EdCia Corp. v McCormack,* 44 AD3d 991, 994; *Matter of Walsh v Design Concepts,* 221 AD2d 454, 455; *Suffolk County Assn. of Mun. Empls. v County of Suffolk,* 163 AD2d 469, 470-471).

The appellant's remaining contention regarding an alleged overpayment by Quick Roll Leaf Mfg. Co., Inc., to Edward Quick, Jr., is not properly before this Court on this appeal.

COVELLO, J.P., ANGIOLILLO, LOTT and ROMAN, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court

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