

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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KALEIDA HEALTH,

Plaintiff,

Bench Decision  
(Do Not Distribute)

vs.

Index #: 804342/2020

HARPDATA LLC,

Defendants,

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On April 13, 2020, this Court denied the ex-parte request made by Plaintiff seeking a preliminary injunction to restrain Defendant from “continuing to violate its obligation pursuant to the agreement.” The Court, in denying this request, permitted Defendants to answer and Plaintiff to renew its request after joinder.

The dispute involves an alleged breach of an agreement wherein Defendant agreed to upgrade Kaleida’s IT network infrastructure by installing wireless CISCO switches. A Statement of Work was executed in August 2018 wherein Defendant agreed to update the network in exchange for a total of \$365,376.15. \$182,888.07 was paid to Defendant upon the execution of the SOW and \$182,668.08 was to be paid of September 30, 2018.

In February 2020, after years of other entanglements Harp Data was involved, the work contracted for still was not complete. Plaintiff attributes this to Defendant not being competent and not possessing the qualifications and credentials to perform the work that it originally represented it possessed.

On February 12, 2020, Kaleida requested the funds be returned, which was refused by Defendant. While the papers submitted demonstrate a difference of opinion as to whether the contract was terminated properly or not, it is clear that notwithstanding full payment for the services contracted, Defendant failed to adequately perform their obligations owed under the statement of work.

Defendant offers several explanations as to why it did not perform its duties under the contract. However, it does not dispute that it did not install the switches and perform the network upgrades it was to provide. These explanations include a dispute with CORE, a third party contractor from whom the switches were purchased, a dispute with Kaleida and ECMC as to whom would purchase the switches, and an allegation that Kaleida modified the scope of the SOW.

Kaleida was forced to hire another IT company to complete the work that Harp did not. As a result, Plaintiff commenced this action with the filing of a summons and complaint, wherein it alleges breach of contract and unjust

enrichment. In its request for a preliminary injunction, Kaleida cites the urgent need for an updated network capabilities as a result of the coronavirus pandemic, which has stretched its technological infrastructure to meet the needs of doctors, nurses and staff that are working on site or remotely. Connectivity, according to Plaintiff, is of paramount concern. Defendants, conversely, state that this in and of itself, does not rise to the level of satisfying the requirements for a preliminary injunction when other adequate remedies of law exist.

Entitlement to a preliminary injunction requires a showing of (1) the likelihood of success on the merits, (2) irreparable injury absent the granting of preliminary injunctive relief, and (3) a balancing of the equities in the movant's favor. CPLR 6301; Nobu Next Door, LLC v Fine Arts Hous., Inc., 4 N.Y.3d 839 (2005); Aetna Ins. Co. v Capasso, 75 N.Y.2d 860 (1990).

The Court finds that Defendant did breach the contract by not fulfilling the terms of the statement of work and, as such, Plaintiff would most likely prevail on the merits. Notwithstanding the arguments made by the Defendant, they clearly were not capable of providing the services they agreed to complete for a variety of reasons. As such, Plaintiff has satisfied the first requirement for a preliminary injunction. However, Plaintiffs seek a preliminary injunction to “enjoin the

defendants” from continuing to violate its obligations under the agreement. Plaintiff cannot, in seeking injunctive relief, wish to compel Defendants to complete its work when at the same time asserts they are incapable of doing so. The adequate remedy of law, here, are monetary damages, which Plaintiff can pursue in its complaint without the need of a preliminary injunction. While the court recognizes the time associated with prevailing on its causes of action and the perils in collecting on a judgment, that, in and of itself, does not justify injunctive relief.

As such, Plaintiff’s request for a preliminary injunction is hereby DENIED. However, this Court believes that a schedule designed to expedite the resolution of this matter is necessary. As such, the Court directs that all demands for discovery must be exchanged no later than May 29, 2020. All replies must be provided no later than June 30, 2020. Depositions, which can be conducted in person or electronically, must be complete no later than August 17, 2020. A status conference is hereby scheduled for August 24, 2020 at 10:00 a.m.

Plaintiff shall submit an Order together with a transcript of this decision on notice.