

<b>Napoli Bern Ripka, LLP v Platta</b>
2007 NY Slip Op 32456(U)
August 1, 2007
Supreme Court, New York County
Docket Number: 0103000/2007
Judge: Emily Jane Goodman
Republished from New York State Unified Court System's E-Courts Service. Search E-Courts ( <a href="http://www.nycourts.gov/ecourts">http://www.nycourts.gov/ecourts</a> ) for any additional information on this case.
This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: EMILY JANE GOODMAN  
*Justice*

PART 17

*Napoli Bern Ripka, LLP*

INDEX NO. 103000/07

MOTION DATE \_\_\_\_\_

- v -  
*Shawel W. Blatta, Esq.*

MOTION SEQ. NO. 001

MOTION CAL. NO. \_\_\_\_\_

The following papers, numbered 1 to \_\_\_\_\_ were read on this motion to/for \_\_\_\_\_

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

PAPERS NUMBERED


Cross-Motion:  Yes  No

Upon the foregoing papers, it is ordered that this motion *is decided per*

*attached*

**FILED**  
AUG 07 2007  
NEW YORK  
COUNTY CLERK'S OFFICE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Dated: 8/1/07

*[Signature]*

EMILY JANE GOODMAN *J.S.C.*

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : I.A.S. PART 17

-----X  
NAPOLI BERN RIPKA, LLP.

Plaintiff,

- against -

SLAWEK W. PLATTA, ESQ et al,

Defendant(s).

-----X

Index No. 103000/07

**FILED**  
AUG 07 2007  
NEW YORK  
COUNTY CLERK'S OFFICE

By Order to Show Cause, dated March 7, 2007, Plaintiff sought various relief including an injunction prohibiting Defendants from contacting "clients of the plaintiff law firm," an order invalidating unspecified substitution of attorney forms, damages for Defendant Platta's alleged violations of an employment agreement and a declaration regarding the fees that Plaintiff is allegedly entitled to in connection with unspecified clients. By Decision and Order, dated April 9, 2007, the Court dissolved the Temporary Restraining Order previously agreed to by the parties (the Prior Decision). Defendant Platta opposes this motion and denies that he solicited Plaintiff's clients in violation of an employment agreement.

The motion is denied. With respect to a permanent injunction, Plaintiff has not demonstrated a likelihood of success, irreparable harm, or that the balance of the equities lie in its favor. As noted in the Prior Decision, apparently all and/or most of the clients at issue have signed consent to change attorney forms or have otherwise indicated an intention to seek legal assistance from Defendant Platta, and not Plaintiff. An injunction

would improperly interfere with the relationship between Platta and those individuals (see Matter of Silverberg v Schwartz, 75 AD2d 817 [2d Dept 1980]). Moreover, as previously noted, the issue of whether Defendants used unlawful means to induce termination of the Plaintiff's relationship with unspecified clients is, at this point, conclusory (see Koeppel v Schroder, 122 AD2d 780 [2d Dept 1986] [trial court improperly granted an injunction preventing former partners from contacting persons who had active legal matters with law firm because law firm failed to show that former partners used wrongful means to interfere with those relationships]). Nor has Plaintiff provided any support for the Court's power to invalidate any consent to change attorney forms or otherwise interfere with the clients' right to chose their own attorney (id. at 782 [“a client has an absolute right on public policy grounds to terminate the attorney-client relationship. . . Thus, an attorney's retainer agreement is a contract which is terminable at will”]). As to the allegation of irreparable harm, Plaintiff has not demonstrated why money damages would not suffice. Further, Plaintiff is not entitled to the relief sought because generally, the court cannot grant the ultimate relief under the guise of a preliminary injunction (see SportsChannel Am. Assocs. v Natl. Hockey League, 186 AD2d 417, 418 [1st Dept 1992]). To the extent that Plaintiff seeks a declaration regarding the amount of fees it is purportedly owed under an employment agreement, the underlying action does not seek such relief. Plaintiff has not demonstrated why it can circumvent the litigation process by essentially moving for summary judgment on its claims prior to any discovery, in the

guise of this motion for an injunction.

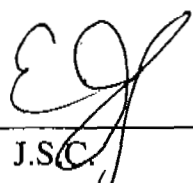
It is hereby

ORDERED that the Order to Show Cause, dated March 7, 2007 is denied.

**This Constitutes the Decision and Order of the Court.**

Dated: ~~April~~<sup>8/1</sup> 2007

ENTER:

  
\_\_\_\_\_  
J.S.C.  
**EMILY JANE GOODMAN**

**FILED**  
AUG 07 2007  
NEW YORK  
COUNTY CLERK'S OFFICE