

<b>Tritech Communications, Inc. v DiGregorio</b>
2011 NY Slip Op 33112(U)
November 22, 2011
Sup Ct, Nassau County
Docket Number: 14918-11
Judge: Timothy S. Driscoll
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**SUPREME COURT-STATE OF NEW YORK  
SHORT FORM ORDER**

**Present:**

**HON. TIMOTHY S. DRISCOLL**  
**Justice Supreme Court**

-----x  
**TRITECH COMMUNICATIONS, INC.,**

**TRIAL/IAS PART: 20**

**Plaintiff,**

**Index No: 14918-11**

**Motion Seq. No. 1**

**Submission Date: 11/14/11**

**-against-**

**MICHAEL DIGREGORIO,**

**Defendant.**

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**The following papers have been read on this Order to Show Cause:**

- Order to Show Cause, Affidavit in Support and Affirmation in Support.....x**
- Summons and Complaint, including Exhibits.....x**
- Affidavit in Opposition, Affidavit of P. Hynes and Exhibits.....x**
- Memorandum of Law in Opposition.....x**

This matter is before the court on the Order to Show Cause filed by Plaintiff Tritech Communications, Inc. ("Plaintiff" or "Tritech") on October 20, 2011 and submitted on November 14, 2011. For the reasons set forth below, the Court denies Plaintiff's Order to Show Cause in its entirety and vacates the temporary restraining order issued on October 20, 2011 except that, pending further court order, Defendant, and anyone acting on his behalf, directly or indirectly, is enjoined from modifying, deleting and destroying any and all information and documentation which may be relevant to the issues raised herein, as well as the above-captioned action, and shall preserve all such information, documentation and Electronically Stored Information, as that term is defined in the Guidelines for Discovery of the Commercial Division of the Supreme Court of Nassau County. Based on the Court's conclusion that this direction does not constitute injunctive relief, the Court declines to require the posting of a bond.

## BACKGROUND

### A. Relief Sought

Plaintiff moves for a 1) temporary restraining order enjoining and restraining the Defendant Michael DiGregorio (“Defendant” or “DiGregorio”), and anyone acting on his behalf, from directly or indirectly, contacting, soliciting, or otherwise interfering with the customers, employees, vendors, subcontractors or prospects of Trittech, pending a hearing and determination on Plaintiff’s application for a permanent injunction; 2) a preliminary injunction enjoining and restraining the Defendant, and anyone acting on his behalf, from directly or indirectly, contacting, soliciting or otherwise interfering with the customers, employees, vendors, subcontractors or prospects of Trittech, pending a hearing and determination on the application of Plaintiff for a permanent injunction, 3) a temporary restraining order restraining Defendant, from directly or indirectly, owning, managing, operating, joining, controlling, participating in, investing in, or otherwise being connected with, in any manner, whether as an officer, director, shareholder, employee, partner, venturer, investor, or otherwise, any entity that is engaged, directly or indirectly, in any activity related, directly or indirectly, to the installing and maintenance of voice and data cabling, telephone systems, security systems, audio visual systems, or any business in which Trittech is presently engaged, pending a hearing on Plaintiff’s application for a preliminary injunction; 4) a preliminary injunction enjoining and restraining the Defendant from directly or indirectly, owning, managing, operating, joining, controlling, participating in, investing in, or otherwise being connected with, in any manner, whether as an officer, director, shareholder, employee, partner, venturer, investor, or otherwise, any entity that is engaged, directly or indirectly, in any activity related, directly or indirectly, to the installing and maintenance of voice and data cabling, telephone systems, security systems, audio visual systems and any business which in which Trittech is presenting engaged, pending a hearing and determination on the application of Plaintiff for a permanent injunction; 5) a temporary restraining order restraining Defendant, and any persons acting on his behalf, from disclosing or using the confidential information and trade secrets of the Plaintiff, pending the hearing and determination on Plaintiff’s application for a preliminary injunction; 6) a preliminary injunction enjoining and restraining the Defendant, and any persons acting on his behalf, from disclosing or using the confidential information and trade secrets of the Plaintiff, pending a hearing and

determination on Plaintiff's application for a permanent injunction; and 7) an Order directing Defendant to immediately return to the Plaintiff all of Plaintiff's confidential information, proprietary materials and trade secrets, including, but not limited to, customer lists, pricing information, documents, computer files and data.

Plaintiff's Order to Show Cause also includes an application for certain temporary restraining orders. On October 20, 2011, the Court issued a temporary restraining order ("TRO") which directs that: 1) pending the hearing and determination of Plaintiff's application for a permanent injunction, Defendant, and anyone acting, directly or indirectly, on his behalf, are hereby enjoined and restrained from contacting, soliciting or otherwise interfering with the customers, employees and prospects of Trittech; 2) pending the hearing and determination of Plaintiff's application for a preliminary injunction, Defendant, and anyone acting on his behalf, is ordered and directed not to disclose or use the confidential information, proprietary materials or trade secrets of Plaintiff, and to immediately return to Plaintiff all confidential information, proprietary materials and trade secrets, including, but not limited to, customer lists, pricing information, documents, computer files and data of the Plaintiff; and 3) pending the hearing and determination of Plaintiff's application for a temporary restraining order, preliminary injunction and permanent injunction and the conclusion of the above-captioned action ("Instant Action"), Defendant, and anyone acting on his behalf, directly or indirectly, is enjoined from modifying, deleting and destroying any and all information and documentation which may be relevant to the issues raised herein, as well as the Instant Action, and shall preserve all such information, documentation and Electronically Stored Information ("ESI"), as that term is defined in the Guidelines for Discovery of the Commercial Division of the Supreme Court of Nassau County.

#### B. The Parties' Background

The Verified Complaint ("Complaint") alleges as follows:

Trittech, which was founded in 2002, is a "leading technology systems integrator providing its clients with a single source for engineering, installation and maintenance of large and complex information technology ("IT") communications, audio visual and security systems" (Compl. at ¶ 3). Matthew O'Reilly ("O'Reilly") and Patrick Ehmann ("Ehmann") are Co-Chief Executive Officers of Trittech. Defendant was 1) President of Trittech, 2) the executive responsible for the communications and security divisions of Trittech, and 3) the corporate officers responsible for the management of Trittech's IT communications and security divisions.

O'Reilly has a 5.95% ownership interest in Tritech, Defendant has a 5.29% ownership interest in Tritech, and Ehmann has a 88.76% ownership interest in Tritech.

On January 28, 2011, O'Reilly, Ehmann, Defendant and Tritech entered into the Fourth Amended and Restated Shareholders Agreement ("Shareholders Agreement") (Ex. B to Compl.). The Shareholders Agreement contains, *inter alia*, a restrictive covenant ("Restrictive Covenant") and confidentiality provision (Sh. Agr. at ¶ 11). The Restrictive Covenant limits Defendant's rights to engage in certain conduct anywhere in the United States for a period of two (2) years after the termination of the Agreement or the date on which the shareholder ceases to own his shares, whichever is later. In addition, Plaintiff maintained an Employee Handbook ("Handbook") which contained a section titled "Code of Ethics and Conduct" which addressed matters including financial disclosures, outside employment and confidential information.

In December of 2010, Tritech was introduced to Patrick Hynes ("Hynes") and Gerald Martin ("Martin"), principals in a group of companies known as The Martin Group ("Martin Principals") who expressed interest in purchasing the IT and communications division of Tritech, which was managed by Defendant ("Proposed Sale"). The Martin Group ("TMG") and Tritech entered into a confidentiality agreement which provided for the sharing of confidential and business information to permit TMG to evaluate the Proposed Sale. TMG conducted its due diligence, during which certain confidential information was disclosed, but the Proposed Sale did not materialize.

In July of 2011, Jack O'Connor ("O'Connor"), Tritech's Senior Vice President of sales and business development, resigned. Tritech subsequently reviewed O'Connor's emails and discovered an email from a Tritech consultant regarding a cable company referred to as "National Tech" (Compl. at ¶ 18) in which the consultant sought a meeting with O'Connor and Defendant while both were still Tritech employees. At or about the same time, Tritech, in an effort to reduce its expenses, asked Defendant to terminate one of its three estimators in the IT and communication division, and Defendant terminated one of those estimators.

In the following months, Tritech began losing bids for lucrative projects, and those projects were awarded to a company called The National Technology Group, Inc. ("NTG"). The certificate of incorporation for NTG reflects that the Martin Principals are the incorporators and directors of NTG, and NTG and TMG share the same address.

On September 30, 2011, Tritech terminated Defendant's employment. Tritech reviewed Defendant's email account which allegedly demonstrates that between March and September of

2011, Defendant was diverting business opportunities from Tritech to TMG and NTG. Those emails include an April 30, 2011 email from Defendant to his home email address with an attachment containing, *inter alia*, a list of Tritech customers (“Customers”), and projected revenues from these Customers for 2010 and 2011. Plaintiff alleges that these Customers comprise approximately 55% of the annual revenues of Tritech’s Communications Division and approximately 21% of its entire annual revenue for 2010.

Tritech also reviewed Defendant’s Tritech-issued cellular phone which reflected calls with TMG in New Jersey between June 20 and September 19, 2011. Tritech also learned that Société Générale, a Tritech customer, was awarding a bid to NTG, and that Société Générale would be meeting with Defendant regarding implementation of the bid award.

The Complaint contains eleven (11) causes of action: 1) breach of the Shareholders Agreement, 2) intentional breach of fiduciary duty, 3) negligent breach of fiduciary duty, 4) breach of certain provisions in the Handbook, 5) interference with prospective advantage (employees), 6) misappropriation of confidential information, proprietary materials and trade secrets, 7) interference with prospective advantage (customers), 8) unfair competition, 9) breach of duty of loyalty, 10) breach of fiduciary duty, and 11) request for a constructive trust. Plaintiff seeks relief including a permanent injunction, specific performance directing Defendant to perform obligations set forth in the Agreement and Handbook, a direction that Defendant immediately return all confidential information and trade secrets to Tritech, an accounting for profits resulting from work performed by Defendant with current or former Tritech customers, a constructive trust as to those profits and money damages.

In his Affidavit in Support, O’Reilly affirms the truth of the allegations in the Complaint. He submits, further, that DiGregorio possessed “unique skills and experience” and “unique and special information about Tritech” (O’Reilly Aff. in Supp. at ¶ 5) and was the primary contact person for customers and vendors within the IT communications and security division. O’Reilly submits that Plaintiff has established that Defendant has engaged in the unlawful activity alleged in the Complaint, and that the requested injunctive relief is appropriate.

In opposition, Defendant affirms that over the past year, O’Reilly and Ehmann have attempted to force Defendant out of Tritech by, *inter alia*, 1) downsizing the IT division over which Defendant presided; 2) phasing out its Security division entirely; 3) removing Defendant as head of the IT division and placing him in the marketing division, regarding which he has no

training or experience; and 4) firing Defendant on September 30, 2011 based on false accusations that he had formed a competing business.

Defendant submits that Plaintiff, who fired him, is now attempting to prevent Defendant from working in his chosen profession anywhere in the United States for the next two (2) years. Defendant contends, further, that he does not possess or employ special or unique business practices, and that Tritech does not enjoy a competitive advantage in its field as a result of any trade secret or unique methodology.

Defendant affirms that in 2010, Tritech was experiencing significant financial problems and considered several solutions, one of which involved securing third-party investors who could provide Tritech with additional capital. To that end, Tritech contacted The Martin Principals, but the Proposed Sale did not materialize. Subsequently, in January of 2011, Ehmann agreed to provide an infusion of capital, in return for which he became the largest Tritech shareholder.

In mid-January of 2011, O'Reilly presented the Agreement to Defendant and Ehmann and demanded that they sign it immediately so that Tritech could obtain the financing it needed to continue to operate. Defendant had no opportunity to review the Agreement or consult with an attorney before signing it.

O'Reilly and Ehmann then made several management decisions with which Defendant did not agree, including the phasing out of Tritech's Security division. Ehmann suggested to Defendant that if he could arrange for the sale of the IT division, Ehmann would consider it. To that end, Defendant contacted third parties including the Martin Principals. On March 25, 2011, the Proposed Sale was discussed again and a tentative agreement was reached whereby Tritech would "spin off" (D's Aff. in Opp. at ¶ 21) its IT and Security divisions to a company formed by TMG, which would include IT and Security division assets, inventory, certain Tritech employees and customer accounts. In May of 2011, Ehmann decided not to proceed with the proposed TMG agreement because it was "moving too fast" (*id.* at ¶ 23) but advised Defendant that if he arranged for a different sale of the IT division, Ehmann would consider it.

Defendant also disputes Plaintiff's claim that he undermined bids for two projects involving Cablevision and Société Générale. Defendant affirms that, while Tritech submitted a bid on a Cablevision project in 2010, Cablevision subsequently scaled the project down and requested that vendors resubmit bids. Tritech did not submit a bid on the revised project.

In his Affidavit, Hynes affirms that he is a principal of TMG which is a New Jersey-based general contracting, construction management and client representation firm. He reaffirms

the truth of the affirmations in Defendant's affidavit, and avers that prior to December 2010, TMG was introduced to Tritech and "began to explore whether or not a mutually agreeable deal could be achieved that would provide TMG with access to a turn-key IT operation and Tritech access to TMG's construction clients" (Hynes Aff. at ¶ 3). Those discussions initially centered on the buy-out of O'Reilly's interest in Tritech, and a promise to provide capital to Tritech. Although a tentative agreement was reached, the proposed buy-out of O'Reilly's shares did not materialize because Tritech's bank could not support the proposed transaction.

Hynes considered alternative business arrangements with Tritech, which he discussed with Tritech principals including Defendant. On March 25, 2011, Hynes contacted Ehmann and O'Reilly via email with a proposal that TMG purchase Tritech's IT and Security divisions outright. Ehmann was receptive to this proposal, as reflected by his email to Hynes dated March 25, 2011 in which he wrote:

Hi Patrick. It is nice to hear from you again. In response to your inquiry, Tritech would consider the possibility of selling the IT/Security Divisions under the right circumstances. I would welcome an opportunity to speak with you about this matter, on either Monday or Tuesday of next week. Please contact me when you get a moment to let me know what times work for you. I look forward to speaking with you again.

From,

Patrick Ehmann

Ex. 3 to Hynes Aff.

Hynes affirms, further, that over the next several weeks he conducted meetings and telephone conferences and exchanged numerous emails with Tritech personnel including Ehmann and O'Reilly regarding this proposed transaction. Hynes avers that his company had already conducted the necessary due diligence to proceed with the proposed buy-out. By April 20, 2011, they had outlined the essential terms of the Proposed Sale which provided that Tritech would spin off its IT and Security Divisions to a company to be formed by TMG, and TMG subsequently formed that company which is known as NTG. The Proposed Sale included 1) the purchase of Tritech's IT and Security division assets and inventory, 2) the transfer of select Tritech employees, and 3) the assumption of certain customer accounts. In addition, the parties to the Proposed Sale discussed NTG's leasing the space occupied by the IT and Security divisions at Tritech until alternative space could be located. The Proposed Sale also

contemplated a transition schedule, pursuant to which existing projects would be serviced and completed by IT and security employees under the Trittech name, and new projects would be serviced under NTG's name.

On May 17, 2011, Ehmann notified Hynes by email that Trittech was breaking off talks regarding the Proposed Sale. Hynes provides an email dated May 17, 2011 from Ehmann to Hynes (Ex. 6 to Hynes Aff.) which contains the subject line "TriTech Spin Off" and reads as follows:

Hi Patrick.

During the past few weeks a situation developed with the TriTech organization. We learned that the process of setting up a new subsidiary was going to end up costing TriTech more than anticipated and this has made the cost of this deal more than the benefits at this time.

I am sorry to inform you that as of this time, we are no longer going to consider this option for our company.

I apologize for any distraction this process has caused your Organization. I also would like to express that this decision is based on internal reasons rather than anything about your considerable offer.

I hope that our two companies can still work together in the future on any projects or opportunities that you feel we may be able to bring value to you.

Thank you.

Patrick Ehrmann

Hynes affirms that, although he was disappointed that the Proposed Sale was consummated, TMG was still interested in forming its own IT services and installation company, and NTG opened for business in the summer of 2011. Hynes avers that he is "surprised" (Hynes Aff. at ¶ 10) that O'Reilly did not mention the Proposed Sale in his Affidavit in Support, given his involvement with the discussions in the Proposed Sale, and his receipt of an email dated March 25, 2011 from Hynes (Ex. 6 to Hynes Aff.) in which Hynes asked whether Trittech was "continuing to explore the possibility of selling the IT/Security division" and offered the sum of \$460,000.00 to purchase those divisions.

Hynes affirms that the Proposed Sale discussions continued through the summer of 2011. He describes as "false" O'Reilly's assertion that Defendant was "secretly running [NTG] from Trittech" (Hynes Aff. at ¶ 12). Moreover, Defendant did not ask Hynes to employ him until after

Defendant was terminated from Tritech on September 30, 2011, and Defendant's first day of full time employment with NTG was October 17, 2011. Finally, Hynes affirms that he has no knowledge that Defendant ever provided NTG with information regarding Tritech's bid proposals and submits that, in any case, that information is of minimal use to NTG.

### C. The Parties' Positions

Plaintiff submits that it has demonstrated its right to the requested injunctive relief by 1) establishing Defendant's breach of the Restrictive Covenant and Handbook, as well as his breach of his fiduciary duty of loyalty to his shareholders and employers; 2) demonstrating irreparable harm without the requested injunctive relief in light of a) Defendant's status as a high level executive, who is privy to Tritech's trade secrets, and can be reasonably be expected to disclose those trade secrets to subsequent employers, b) Defendant's special relationship with Tritech customers, vendors and subcontractors, and c) the significant revenue represented by the Customers; and 3) demonstrating that a balancing of the equities favors Plaintiff in light of Defendant's allegedly improper conduct.

Defendant opposes Plaintiff's application submitting, *inter alia*, that 1) the scope of the requested preliminary injunction is "extraordinarily broad" (D's Memo. of Law at p. 3) in that it would force Defendant to resign from his current employment in New Jersey and cease all involvement in the IT industry until this action is resolved; 2) the Restrictive Covenant that Plaintiff seeks to enforce is overly broad and, therefore, unenforceable in that it would prevent Defendant from working in any business related to the industries in which Tritech is involved, anywhere in the United States, for a period of two (2) years; 3) Plaintiff has not demonstrated irreparable injury without the requested injunctive relief given that any harm is compensable by money damages; 4) Plaintiff has failed to establish a likelihood of success on the merits in that Defendant has disproved the premise of Plaintiff's application which is that Defendant improperly established and operated a business to compete with Tritech; Defendant's submissions have established that Defendant's allegedly improper conduct occurred in the context of the Proposed Sale; 5) the Court should consider Plaintiff's failure to mention the Proposed Sale as evidence that Plaintiff has attempted to misrepresent the facts in seeking its application; 6) Plaintiff has failed to provide credible evidence of damages in light of the fact, e.g. that Plaintiff did not submit a bid on the Cablevision project and, therefore, Defendant could not have undermined Plaintiff's bid on that project; and 7) the equities do not favor the granting

of the requested injunctive relief, both in light of Plaintiff's lack of candor regarding the Proposed Sale, and because Trittech's alleged damages are compensable by money damages.

### RULING OF THE COURT

#### A. Preliminary Injunction Standards

A preliminary injunction is a drastic remedy and will only be granted if the movant establishes a clear right to it under the law and upon the relevant facts set forth in the moving papers. *William M. Blake Agency, Inc. v. Leon*, 283 A.D.2d 423, 424 (2d Dept. 2001); *Peterson v. Corbin*, 275 A.D.2d 35, 36 (2d Dept. 2000). Injunctive relief will lie where a movant demonstrates a likelihood of success on the merits, a danger of irreparable harm unless the injunction is granted and a balance of the equities in his or her favor. *Aetna Ins. Co. v. Capasso*, 75 N.Y.2d 860 (1990); *W.T. Grant Co. v. Srogi*, 52 N.Y.2d 496, 517 (1981); *Merscorp, Inc. v. Romaine*, 295 A.D.2d 431 (2d Dept. 2002); *Neos v. Lacey*, 291 A.D.2d 434 (2d Dept. 2002). The decision whether to grant a preliminary injunction rests in the sound discretion of the Supreme Court. *Doe v. Axelrod*, 73 N.Y.2d 748, 750 (1988); *Automated Waste Disposal, Inc. v. Mid-Hudson Waste, Inc.*, 50 A.D.3d 1073 (2d Dept. 2008); *City of Long Beach v. Sterling American Capital, LLC*, 40 A.D.3d 902, 903 (2d Dept. 2007); *Ruiz v. Meloney*, 26 A.D.3d 485 (2d Dept. 2006).

Proof of a likelihood of success on the merits requires the movant to demonstrate a clear right to relief which is plain from the undisputed facts. *Related Properties, Inc. v. Town Bd. of Town/Village of Harrison*, 22 A.D.3d 587 (2d Dept. 2005); *Abinanti v. Pascale*, 41 A.D.3d 395, 396 (2d Dept. 2007); *Gagnon Bus Co., Inc. v. Vallo Transp. Ltd.*, 13 A.D.3d 334, 335 (2d Dept. 2004). Thus, while the existence of issues of fact alone will not justify denial of a motion for a preliminary injunction, the motion should not be granted where there are issues that subvert the plaintiff's likelihood of success on the merits to such a degree that it cannot be said that the plaintiff established a clear right to relief. *Advanced Digital Sec. Solutions, Inc. v. Samsung Techwin Co., Ltd.*, 53 A.D.3d 612 (2d Dept. 2008), quoting *Milbrandt & Co. v. Griffin*, 1 A.D.3d 327, 328 (2d Dept. 2003); see also CPLR § 6312(c).

A plaintiff has not suffered irreparable harm warranting injunctive relief where its alleged injuries are compensable by money damages. See *White Bay Enterprises v. Newsday*, 258 A.D.2d 520 (2d Dept. 1999) (lower court's order granting preliminary injunction reversed where record demonstrated that alleged injuries compensable by money damages); *Schrager v.*

*Klein*, 267 A.D.2d 296 (2d Dept. 1999) (lower court's order granting preliminary injunction reversed where record failed to demonstrate likelihood of success on merits or that injuries were not compensable by money damages).

#### B. Restrictive Covenants

Powerful considerations of public policy militate against sanctioning the loss of a person's livelihood. *Post v. Merrill Lynch*, 48 N.Y.2d 84, 86 (1979), citing *Purchasing Assoc. v. Weitz*, 13 N.Y.2d 267, 272 (1963). This policy is so potent that covenants tending to restrain anyone from engaging in any lawful vocation are almost uniformly disfavored, and are sustained only to the extent that they are reasonably necessary to protect the legitimate interests of the employer, and are not unduly harsh or burdensome to the one restrained. *Id.* at 87, citing, *inter alia*, *Columbia Ribbon & Carbon Mfg. Co. v. A-1-A Corp.*, 42 N.Y.2d 496, 499 (1977). Restrictive covenants contained in employment contracts are disfavored by the courts and are to be enforced only if reasonably limited temporally and geographically, and to the extent necessary to protect the employer's use of trade secrets or confidential customer information. *Gilman & Ciocia, Inc. v. Randello*, 55 A.D.3d 871, 872 (2d Dept. 2008).

#### C. Application of these Principles to the Instant Action

The Court denies Plaintiff's Order to Show Cause in its entirety. Plaintiff has not demonstrated a likelihood of success on the merits in light of the evidence before the Court that suggests that the conduct alleged in the Complaint occurred in the context of the Proposed Sale and that Plaintiff encouraged, or at least acquiesced in, Defendant's involvement in the Proposed Sale which included providing TMG with information regarding Trittech. Moreover, even assuming *arguendo* that Defendant did not engage in the alleged conduct with the imprimatur of Plaintiff, there exist serious questions regarding the enforceability of the Restrictive Covenant given its broad geographical and temporal scope. The Court also concludes that any damages suffered by Plaintiff are compensable by money damages. Finally, a balancing of the equities does not favor Plaintiff, as the requested injunctive relief would seriously affect Defendant's ability to earn a living, and the documentation regarding the Proposed Sale suggests that Plaintiff was aware of Defendant's involvement with TMG for some time before seeking the requested relief.

In light of the foregoing, the Court denies Plaintiffs' Order to Show Cause in its entirety and vacates the TRO except that, pending further court order, Defendant, and anyone acting on his behalf, directly or indirectly, is enjoined from modifying, deleting and destroying any and all information and documentation which may be relevant to the issues raised herein, as well as the above-captioned action, and shall preserve all such information, documentation and Electronically Stored Information, as that term is defined in the Guidelines for Discovery of the Commercial Division of the Supreme Court of Nassau County. Based on the Court's conclusion that this direction does not constitute injunctive relief, the Court declines to require the posting of a bond.

All matters not decided herein are hereby denied.

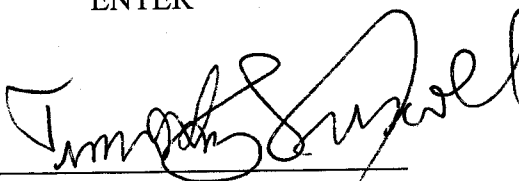
This constitutes the decision and order of the Court.

The Court directs counsel for the parties to appear before the Court on December 22, 2011 at 9:30 a.m. for a Preliminary Conference.

ENTER

DATED: Mineola, NY

November 22, 2011



HON. TIMOTHY S. DRISCOLL

J.S.C.

**ENTERED**

NOV 30 2011

**NASSAU COUNTY  
COUNTY CLERK'S OFFICE**