

**Beach v Touradji Capital Mgt., LP**

2015 NY Slip Op 31969(U)

October 21, 2015

Supreme Court, New York County

Docket Number: 603611/2008

Judge: Anil C. Singh

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This opinion is uncorrected and not selected for official publication.

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

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GENTRY T. BEACH and ROBERT A. VOLLERO

Plaintiffs,

Index No.: 603611/2008

-against-

DECISION AND ORDER

TOURADJI CAPITAL MANAGEMENT, LP, and  
PAUL TOURADJI

Motion Seq. No. 36

Defendants.

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TOURADJI CAPITAL MANAGEMENT, LP, and  
PAUL TOURADJI

Counterclaim Plaintiffs

-against-

GENTRY T. BEACH and ROBERT A. VOLLERO

Counterclaim Defendants.

-----X  
TOURADJI CAPITAL MANAGEMENT, LP,  
DEEPROCK VENUTRE PARTNERS, LP, and  
PAUL TOURADJI

Counterclaim Plaintiffs

-against-

VOLLERO BEACH CAPITAL PARTNERS LLC,  
VOLLERO BEACH CAPITAL FUND, LP,  
VOLLERO BEACH ASSOCIATES LLC,  
VOLLERO BEACH CAPITAL OFFSHORE, LTD,  
and GARY BEACH,

Counterclaim Defendants.

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**ANIL C. SINGH, J.:**

In this motion, defendant Touradji Capital Management, LP, DeepRock Venture Partners, LP and Paul Touradji (collectively, “defendants”) seeks for leave to reargue this court’s grant of summary judgment on defendant’s third counterclaim, alleging theft of trade secrets. Plaintiffs oppose the motion.

“A motion for reargument, addressed to the discretion of the court, is designed to afford a party an opportunity to establish that the court overlooked or misapprehended the relevant facts, or misapplied any controlling principle of law. Its purpose is not to serve as a vehicle to permit the unsuccessful party to argue once again the very questions previously decided. Nor does reargument serve to provide a party an opportunity to advance arguments different from those tendered on the original application. It may not be employed as a device for the unsuccessful party to assume a different position inconsistent with that taken on the original motion.” (Foley v. Roche, 68 A.D.2d 558, 567-568 [1<sup>st</sup> Dept., 1979]).

Here, defendants argue that the court overlooked evidence that defendants submitted when it granted summary judgment on counterclaim three (Theft of Trade Secrets). In particular, defendants argue that the court overlooked evidence when it stated that the record did not reveal what aspects of the purloined information constituted trade secrets (Order at 20), and also accepted as true plaintiff Vollero’s challenged and disputed explanations as to the reasons for his


possession and use of defendant's trade secrets (Order at 22). In particular, the defendants contend that the court failed to consider the Trade Secret Submission – a collection of files, put together by defendants, to provide the court with examples of the type of files that plaintiff alleged absconded. Defendants argue that the files include detailed schedules and internal reports reflecting portfolio structures, liquidity analyses, and profit and loss attribution concerning defendants' investment portfolio.

However, the court did provide substantial reasons in granting summary judgment on counterclaim three. Notably, among other findings, the court found “there is no indication that [defendants] took measures...to guard the secrecy of the information”; “[plaintiff Beach] did not enter into a general confidentiality agreement”, “there is no indication that there were protocols in place intended to protect the confidentiality of this information”; and “Vollero frequently took the relevant sort of work product home”. Moreover, the court held that even the files were trade secret, there was no misappropriation. The court found that the fact that the files were found on plaintiff Vollero's wife's computer “does not indicate that they were obtained improperly”. The court also held that the assertions made by defendants were vague and conclusory. Moreover, the court reiterated that there was no allegation that plaintiff Vollero disclosed the information or that the information was misused.

This court has again examined this case, and see no reason to change its views.

ORDERED that the motion of defendants to reargue the court's grant of summary judgment on counterclaim three of defendants' counterclaims is denied.

Date: October 21, 2015  
New York, New York

  
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Anil C. Singh