

Jordan, Edmiston Group, Inc. v Wong

2023 NY Slip Op 32090(U)

June 20, 2023

Supreme Court, New York County

Docket Number: Index No. 651416/2023

Judge: Barry Ostrager

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: HON. BARRY R. OSTRAGER PART IAS MOTION 61EFM

Justice

Table with 2 columns: Case/Party Information and Motion Details. Includes 'THE JORDAN, EDMISTON GROUP, INC. (d/b/a JEGI CLARITY), Plaintiff', 'JOSHUA WONG and BRIGHTTOWER, LLC, Defendants', 'INDEX NO. 651416/2023', 'MOTION DATE', 'MOTION SEQ. NO. 003', and 'DECISION + ORDER ON MOTION'.

HON. BARRY R. OSTRAGER

On June 20, 2023, the Court held oral argument via Microsoft Teams with counsel for all parties on Motion Sequence 003 by plaintiff The Jordan, Edmiston Group, Inc. ("JEGI") to reargue plaintiff's Motion Sequence 001 for a preliminary injunction.

Motion Sequence 003 for reargument is granted in part. The Court overlooked that plaintiff's claim against BrightTower, LLC ("BrightTower") for tortious interference with contract encompassed both the non-compete provisions and the non-disclosure provisions of the Employee Confidentiality and Non-Competition Agreement (the "Agreement") entered into between plaintiff and defendant Wong. Though the Court ruled that there was no likelihood of success on the merits on plaintiff's claim that BrightTower tortiously interfered with the non-compete provision of the Agreement, the Court failed to consider whether BrightTower wrongfully interfered with the non-disclosure provision of the Agreement. Had the Court fully considered this issue in its May 1, 2023 decision (NYSCEF Doc. 48), the ruling on the underlying motion would have been different.

On May 1, 2023, the Court granted an injunction against defendant Joshua Wong because plaintiff established a likelihood of success on the merits of its claim that Mr. Wong breached the

non-disclosure provision of the Agreement by disclosing JEGI Confidential Information to BrightTower. NYSCEF Doc. No. 48. This finding, and the evidence supporting this finding, is relevant to plaintiff's claim against BrightTower for tortious interference with the non-disclosure provision of the Agreement. Testimony adduced at the April 25, 2023 hearing established that BrightTower likely had knowledge of the existence of a valid non-disclosure agreement between plaintiff and Mr. Wong. Plaintiff also presented an email exchange between Mr. Wong and a BrightTower employee whereby the BrightTower employee requested that Mr. Wong provide to BrightTower a list of active prospects and key relationships, which evidence suggests that confidential information likely was disclosed by Mr. Wong to BrightTower (at BrightTower's suggestion) in contravention of the various non-disclosure agreements to which Mr. Wong was bound. Accordingly, plaintiff has established a likelihood of success on the merits of its claim against BrightTower for tortious interference with the non-disclosure provision of the Agreement.

In addition, for the same reasons enumerated in the May 1, 2023 Decision, plaintiff has established that it would suffer irreparable harm should BrightTower use any of plaintiff's confidential information that it has received from Mr. Wong¹ and that the balance of the equities weighs in plaintiff's favor in this regard. A limited injunction against BrightTower regarding the use of plaintiff's confidential information is therefore appropriate.

¹ In the May 1, 2023 Decision, the Court found that plaintiff would suffer irreparable harm absent the Court granting the prong of the preliminary injunction against defendant Wong regarding the non-disclosure provision of the Agreement: "If a prospective client was to learn that a former JEGI employee disseminated their confidential and proprietary information to other firms, JEGI's reputation would clearly be harmed. An injury to a company's reputation cannot be compensated by monetary damages [internal citations omitted]." NYSCEF Doc. No. 48.

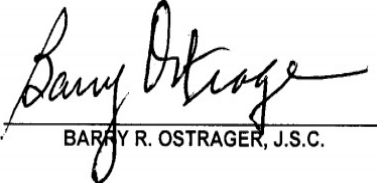
The Court declines to revisit its ruling in any other respect because plaintiff failed to establish that the Court overlooked or misapprehended any other fact or law which would warrant reargument.

Accordingly, Motion Sequence 003 for reargument is granted in part. Upon reargument, the preliminary injunction entered on May 1, 2023 (NYSCEF Doc. 48) is modified to the extent of granting a limited injunction against defendant BrightTower. Defendant BrightTower is enjoined from reviewing or in any way using JEGI's Confidential Information (as defined in the Agreement and pursuant to any Non-Disclosure Agreements pursuant to which defendant Wong was bound). The injunction does not apply to any proprietary or confidential information of JEGI's prospective clients that was already in BrightTower's possession prior to Mr. Wong's involvement with BrightTower. The Court expects the parties to act in good faith and pursuant to the letter and spirit of the May 1, 2023 decision.

A compliance conference is scheduled for September 21, 2023 at 10:00 a.m. via Microsoft Teams. The parties are directed to efile by 12:00 p.m. on June 21, 2023 a revised Proposed Preliminary Conference Order reflecting the Court's ruling on the Transcript of Proceedings of June 20, 2023 as to the disputed discovery schedule and including the above compliance conference date.

The Court urges the parties to consider mediating this dispute before the expenditure of substantial party resources.

Dated: June 20, 2023


BARRY R. OSTRAGER, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: