| **P&I Global Tire Solutions LLC v Mavis Tire Supply LLC** |
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| 2025 NY Slip Op 35440(U) |
| February 11, 2025 |
| Supreme Court, Nassau County |
| Docket Number: Index No. 611600/2024 |
| Judge: Sharon M.J. Gianelli |
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU – COMMERCIAL DIVISION PART 7
Present: Hon. Sharon M.J. Gianelli

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P & I GLOBAL TIRE SOLUTIONS LLC,

Plaintiff,

-against-

MAVIS TIRE SUPPLY LLC D/B/A MAVIS DISCOUNT TIRES, and BEN TIRE LLC,

Defendants.

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Index No: 611600/2024

Motion Seq. 001

Decision and Order

Upon review and consideration of the parties' submissions, the Court's findings are set forth below.

Plaintiff P & I Global Tire Solutions LLC ("P & I") commenced this action against Mavis Tire Supply LLC d/b/a Mavis Discount Tires ("Mavis") and Ben Tire LLC ("Ben Tire"), alleging that Mavis unlawfully terminated a two-year agreement under which P & I was the exclusive provider of used tire disposal services for Mavis locations. Plaintiff asserts that it made significant financial investments based on the contract's terms, only for Mavis to prematurely terminate the Agreement and redirect business to Ben Tire at a lower rate.

Now before this Court is Plaintiff's Order to Show Cause seeking an Order:

(i) Issuing a preliminary injunction enjoining and restraining Defendant MAVIS TIRE SUPPLY LLC D/B/A MAVIS DISCOUNT TIRES ("Mavis"), and any personnel, representative, employee, partner, manager, subsidiary, affiliate, agent, or related entity from taking any further steps to enforce the purported termination of the Agreement dated October 10, 2023 ("Agreement") between Plaintiff and Mavis; and

(ii) issuing a mandatory preliminary injunction directing Mavis to allow Plaintiff to continue servicing the used tire stores in New Jersey and Connecticut in the manner specified in the Agreement and detailed in Exhibit J to the Affirmation of Philip Berta, to maintain the status quo, pending the resolution of this action.

This Court denied Plaintiff's application for a temporary restraining order seeking: (i) to temporarily restrain and enjoin Mavis, and any personnel, representative, employee, partner, manager, subsidiary, affiliate, agent, or related entity from taking any further steps to enforce the purported termination of the Agreement; and (ii) a mandatory temporary injunction directing Mavis to allow Plaintiff to continue servicing the used tire stores in New Jersey and Connecticut in the manner specified in the Agreement, and detailed in Exhibit J to the Affirmation of Philip Berta, until such time as the preliminary injunction is heard.

In support of the instant application, Plaintiff asserts that that Mavis' actions have caused and will continue to cause irreparable harm, as approximately 95% of its total revenue comes from servicing Mavis locations and without reinstatement of the Agreement, it will be forced out of business, unable to meet financial obligations related to staffing, equipment leases, and storage. Plaintiff argues that it is likely to succeed in proving its claims because the agreement explicitly required a two-year commitment, did not allow early termination, and was signed by senior Mavis executives. Plaintiff states that the balance of equities favors granting an injunction because it faces severe financial distress, while Mavis would face no significant harm in allowing P & I to continue servicing the locations as per the contract.

In opposition, Defendants respectively argue that Plaintiff has failed to meet the necessary legal standards for the issuance of a preliminary injunction. Defendants argue that Plaintiff seeks monetary damages for breach of contract, which is compensable by money and therefore does not qualify as irreparable harm; that Plaintiff is unlikely to succeed on the merits because it seeks to add terms to the Agreement which are not there, such as exclusivity or a fixed duration; and that the equities do not favor Plaintiff because Plaintiff lacks clean hands and to continue to enforce the Agreement under such conditions would be inequitable to Defendants.

Moreover, Defendant Mavis argues that there are no extraordinary circumstances applicable to this case that would justify the mandatory preliminary injunction sought.

CPLR §6301 authorizes a preliminary injunction in the following situations:

> where it appears that the defendant threatens or is about to do, or is doing or procuring or suffering to be done an act in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual; or in any action where the plaintiff has demanded and would be entitled to a judgment restraining the defendant from the commission or continuance of an act, which if committed or continued during the pendency of the action would produce injury to the plaintiff.

In order to be entitled to the remedy of a preliminary injunction, a moving party must establish: (1) the likelihood of success on the merits of the underlying action; (2) irreparable injury absent granting the relief; and (3) a balancing of the equities in the movant' s favor *(Gangon Bus Co. v. Vallo Transportation, Ltd.*, 13 AD3d 334 [2d Dept 2004]; *Hightower v. Reid*, 5 AD3d 440 [2d Dept 2004]). To establish a likelihood of success on the merits, the movant must show its right to relief is plain on the facts of the case *(Peterson v. Corbin*, 275 AD2d 35 [2d Dept 2000]). With the particular context of injunctive relief, irreparable injury means any injury for which money damages are insufficient *(Klein, Wagner & Morris v. Lawrence A. Klein, P.C.*, 186 AD2d 631 [2d Dept 1992]). The alleged irreparable harm must be threatened and immediate (*Held v. Hall* 190 Misc2d 444). The function of a preliminary injunction is to maintain the status quo and to avoid dissipation of the property which would render any judgment ineffectual (*Ruiz v. Meloney*, 26 AD3d 485).

The decision to grant or deny a preliminary injunction rests within the sound discretion of the Court *(Ying Fung v. Hohi Umeki*, 10 AD3d 604 [2d Dept 2004]) and will be granted only if there is a clear right to the relief upon the law and the undisputed facts *(JDOC Construction LLC v. Balabanow*, 306 AD2d 319 [2d Dept 2003]).

Here, upon review of the papers and accompanying documents, Plaintiff fails to establish entitlement to the injunctive relief sought. Plaintiff has failed to demonstrate irreparable injury. The Court is not sufficiently convinced that money damages is insufficient to remedy Plaintiff's purported injuries as the Complaint itself rests in money damages, or that a denial of Plaintiff's request for relief herein would render any judgment ineffectual.

Accordingly,

It is

ORDERED, that Plaintiff's application for a preliminary injunction and mandatory preliminary injunction, is Denied; and

It is

ORDERED, that the parties are directed to appear for an In-Person Preliminary Conference on March 10, 2025 at 11:00 a.m.

Any application not specifically ruled upon herein is denied.

This constitutes the Decision and Order of the Court.

DATED: Mineola, New York
February 11, 2025

Sharon M. J. Gianelli
Justice of the Supreme Court

ENTERED
Feb 19 2025
NASSAU COUNTY
COUNTY CLERK'S OFFICE