

Court of Appeals, State of Michigan

ORDER

Boulevard & Trumbull Towing Inc v Ricky Hartman

Docket No. 281261

LC No. 07-724566

Karen M. Fort Hood
Presiding Judge

Helene N. White

Michael J. Talbot
Judges

The Court orders that the motion for immediate consideration is GRANTED.

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the Court further orders that the October 1, 2007, preliminary injunction is VACATED. Injunctive relief is an extraordinary remedy. To determine whether a preliminary injunction should be granted, the issuing court must consider “(1) the likelihood that the party seeking the injunction will prevail on the merits, (2) the danger that the party seeking the injunction will suffer irreparable harm if the injunction is not issued, (3) the risk that the party seeking the injunction would be harmed more by the absence of an injunction than the opposing party would be by the granting of the relief, and (4) the harm to the public interest if the injunction is issued.” *PhRMA v Dep’t of Community Health*, 254 Mich App 397, 401; 657 NW2d 162 (2002). Here, after noting that heavy-duty towing was a specialty, the trial court summarily stated that the factors have been satisfied in favor of the plaintiff. The court’s statements do not sufficiently support the court’s issuance of the injunction. Accordingly, the matter is REMANDED for the appropriate findings and analysis on all of these factors. In conducting this analysis, the trial court shall also determine whether defendant sustained regular and meaningful contact with plaintiff’s customers and developed relationships with its customers that would justify using the non-compete agreement to protect a reasonable competitive business interests and whether the agreement prohibits defendant from using general knowledge about plaintiff’s customers. MCL 445.774a(1); *St Clair Medical v Borgiel*, 270 Mich App 260, 266-269; 715 NW2d 914 (2006). The issue affects the likelihood of success and whether plaintiff will suffer irreparable harm. In order to sustain its burden under MCR 3.310(A)(4), plaintiff should present evidence rather than rely on its general statements in the verified complaint.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 31 2007

Date

Sandra Schultz Mengel
Chief Clerk