

Court of Appeals, State of Michigan

ORDER

Erickson's Flooring & Supply Co Inc v Paul Hamilton

Docket No. 282962

LC No. 07-086848-CK

Mark J. Cavanagh
Presiding Judge

Kathleen Jansen

Elizabeth L. Gleicher
Judges

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

In lieu of granting the application for leave to appeal, the Court orders pursuant to MCR 7.205(D)(2) that the November 9, 2007, preliminary injunction is VACATED. Defendants have not demonstrated that the trial court abused its discretion in issuing a preliminary injunction, *East Lansing v Dep't of State Police*, 269 Mich App 333, 335; 712 NW2d 519 (2005), but the scope of the preliminary injunction does not reflect the clear and unambiguous language of the non-compete agreement at issue. The trial court's preliminary injunction order prohibits Hamilton from working for any supplier that competes with plaintiff. This reflects too expansive an interpretation of the non-compete agreement, the clear language of which refers only to suppliers who compete within a 100 mile radius of plaintiff's offices and warehouses. The trial court's interpretation of the clear and unambiguous non-compete agreement, as reflected in the preliminary injunction, is erroneous. *East Lansing v Dep't of State Police*, 269 Mich App 333, 335; 712 NW2d 519 (2005). This matter is REMANDED for reconsideration of plaintiff's request for a preliminary injunction.

The motion to waive the transcript requirement of MCR 7.209(A)(3) is GRANTED.

The motion for stay pending appeal is DENIED.

This Court retains no further jurisdiction.



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

FEB 11 2008
Date

Sandra Schultz Mengel
Chief Clerk