

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

NH LEARNING SOLUTIONS CORPORATION,

Plaintiff,

v

NO: 2021-186811-CB
HON. MICHAEL WARREN

HADDAD JONES INC, et al.,

Defendants.

OPINION & ORDER DENYING
EX PARTE MOTION FOR
A TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION SHOULD NOT ISSUE

At a session of said Court, held in the
County of Oakland, State of Michigan
Thursday, March 11, 2021.

PRESENT: HON. MICHAEL WARREN

OPINION

Overview

The Plaintiff has filed an Ex Parte Motion for a Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should Not Issue.

At stake is whether such relief should be granted when the Plaintiff has failed to show that ex parte relief is necessary to prevent irreparable harm or that notice itself will precipitate adverse action, and failed to provide the appropriate certification of efforts to provide notice or why it should not be required? Because the answer is “no,” the requested relief is denied.

Discussion

I. Ex Parte Relief is Unnecessary to Prevent Irreparable Harm Resulting from the Delay Required to Effect Notice and The Moving Party has Failed to Demonstrate that Notice Itself Will Precipitate Adverse Action Before an Order can Issue.

The moving party failed to demonstrate by specific facts set forth in an affidavit or verified pleading that irreparable injury, loss, or damage **will result from the *delay required to effect notice* or that *notice itself will precipitate* adverse action before an order can be issued.** MCR 3.310(B)(1)(a).

For example, the submission reflects that the Plaintiff has been aware of the alleged violations for some time, albeit “recently” – yet remains functional and in business. The Plaintiff has not demonstrated with authority that ex parte relief is warranted based on mere “information and belief” that Defendants Monasterio and Ali have been violating duties of confidentiality and non-solicitation/non-interference by using Plaintiff’s information to solicit business from the Plaintiff’s accounts and former accounts. More important, there is no showing that ex parte relief is *necessary* to prevent irreparable harm. How the delay of a few hours in serving the Defendants would somehow exacerbate the alleged harm that has already purportedly occurred is not explained or addressed. Furthermore, there is no credible showing that after being served the Defendants would do anything else to cause irreparable harm.

II. There is No Certification of Attempts to Give Notice or Why Notice Should Not Be Required.

The Plaintiff's attorney failed to certify in writing the efforts, if any, that have been made to give notice and the reasons supporting the claim that notice should not be required. MCR 3.310(B)(1)(b). The Plaintiff has failed to present any law to suggest that the Court can simply ignore this Rule of Court.

III. No Order to Show Cause will Issue, but the Plaintiff May Seek a Preliminary Injunction with Appropriate Notice.

In light of the defects and shortcomings noted above, no Order to Show Cause is appropriate. Nevertheless, this Order renders no ruling on the merits of a preliminary injunction -- the Plaintiff remains free to pursue such relief in compliance with MCR 2.119, MCR 3.310(A) and any other applicable Rule of Court regarding notice.

/s/Michael Warren

**HON. MICHAEL WARREN
CIRCUIT COURT JUDGE**