

No Shepard's Signal™
As of: December 20, 2019 8:16 PM Z

Bromen Office 1, Inc. v. Coens

Court of Appeals of Minnesota

December 28, 2004, Filed

A04 -946

Reporter

2004 Minn. App. LEXIS 1488 *; 2004 WL 2984374

Bromen Office 1, Inc., Appellant, vs. Terrance J. Coens, et al., Respondents, Trudy Elton, Respondent, Davis Typewriter Co., Inc., et al., Respondents.

Procedural Posture

Appellant company sought review of a judgment from the Lyon County District Court (Minnesota) rendered in favor of respondent former employees in an action for injunctive relief brought by the company.

Notice: [*1] THIS OPINION WILL BE UNPUBLISHED AND MAY NOT BE CITED EXCEPT AS PROVIDED BY MINNESOTA STATUTES.

Prior History: Lyon County; Hon. George I. Harrelson, Judge. District Court File No. C4-04-186.

Disposition: Affirmed.

Core Terms

temporary injunction, irreparable harm, district court, injunction, customers, adequate legal remedy, employment contract, former employee, confidential information, tortious interference, restrictive covenant, irreparable injury, former employer, office supplies, trade secret, compensated, considers, quotation, grounded, damages, prevail, argues, enjoin, merits

Case Summary

Overview

The former employees left the company to work for a competitor. The company brought an action against the former employees seeking to temporarily enjoin them from working for the competitor. The trial court denied the request, and the company appealed the judgment contending that it was erroneous. The court noted that to obtain a temporary injunction, the requesting party must have demonstrated the nature and background of the parties' relationship, relative harm including irreparable harm, the likelihood of success on the merits, public policy considerations, and the administrative burden created by a temporary injunction. The company's claimed irreparable harm. In the area of employment contracts, an irreparable injury was not shown by the mere fact that the employee had left the service and had entered the service of a rival. The court concluded that the company failed to establish that it would have been irrevocably harmed absent a temporary injunction. In addition, the balance of the harm favored the former employees. Therefore, the trial court did not abuse its discretion in denying the company's request for a temporary injunction. The judgment was affirmed.

Outcome

The judgment of the trial court was affirmed.



LexisNexis® Headnotes

Civil Procedure > Appeals > Standards of Review > Abuse of Discretion

Civil
Procedure > Remedies > Injunctions > Preliminary & Temporary Injunctions

HN1 Standards of Review, Abuse of Discretion

The district court's decision regarding a motion for a temporary injunction is reviewed for abuse of discretion. The reviewing court considers the facts in a light most favorable to the prevailing party.

Civil
Procedure > Remedies > Injunctions > Preliminary & Temporary Injunctions

HN2 Injunctions, Preliminary & Temporary Injunctions

The purpose of a temporary injunction is to preserve the status quo pending a decision on the merits of the action.

Civil Procedure > ... > Injunctions > Grounds for Injunctions > General Overview

Civil
Procedure > Remedies > Injunctions > Preliminary & Temporary Injunctions

HN3 Injunctions, Grounds for Injunctions

The party seeking an injunction must demonstrate that there is no adequate legal remedy and that the injunction is necessary to prevent irreparable harm. Failure to establish irreparable harm is by itself, a sufficient ground for denying a temporary injunction.

Civil Procedure > Appeals > Standards of Review > De Novo Review

Civil Procedure > ... > Injunctions > Grounds for Injunctions > General Overview

HN4 Standards of Review, De Novo Review

The appellate court reviews the question of whether a party has an adequate legal remedy de novo.

Civil
Procedure > Remedies > Injunctions > Preliminary & Temporary Injunctions

HN5 Injunctions, Preliminary & Temporary Injunctions

When deciding whether to grant a temporary injunction, the district court considers five factors: (1) the nature and background of the parties' relationship; (2) the relative harm suffered by either party, including whether the moving party will suffer irreparable harm absent a temporary injunction; (3) the relative likelihood of success on the merits; (4) public policy considerations; and (5) the administrative burden created by judicial enforcement and supervision of a temporary injunction.

Civil Procedure > ... > Injunctions > Grounds for Injunctions > General Overview

Civil
Procedure > Remedies > Injunctions > Preliminary & Temporary Injunctions

HN6 Injunctions, Grounds for Injunctions

Irreparable harm occurs when a party has no adequate legal remedy. Mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a temporary injunction, are not enough. The possibility that adequate compensatory or other corrective relief will be available at a later date, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm.

Civil Procedure > ... > Injunctions > Grounds for

2004 Minn. App. LEXIS 1488, *1

Injunctions > General Overview

Civil
Procedure > Remedies > Injunctions > Preliminary
& Temporary Injunctions**HN7** Injunctions, Grounds for Injunctions

Where the injury alleged is primarily economic, grounds for a temporary injunction are not established.

Civil Procedure > ... > Injunctions > Grounds for
Injunctions > General Overview**HN8** Injunctions, Grounds for Injunctions

In the area of employment contracts, an irreparable injury is not shown by the mere fact that the employee has left the service and has entered the employ of a rival concern. Harm is found where a former employee trades on good will established while working for a former employer or where a professional exercises personal influence over patients or clients of a former employer.

Counsel: M. Barry Darval, Darval Wermerskirchen & Frank, P.A., Willmar, MN (for appellant).

Paul E. Stoneberg, Stoneberg, Giles & Stroup, P.A., Marshall, MN (for respondents Coens, et al.).

Glen A. Petersen, Petersen Law Office, Tyler, MN (for respondent Elton).

William J. Wetering, Hedeem, Hughes & Wetering, Worthington, MN (for respondents Davis Typewriter Co., et al.).

Judges: Considered and decided by Harten, Presiding Judge, Klaphake, Judge, and Stoneburner, Judge.

Opinion by: KLAPHAKE

Opinion**UNPUBLISHED OPINION**

KLAPHAKE, Judge

Appellant Bromen Office 1, Inc. (Bromen) brought this suit alleging breach of restrictive covenants in employment contracts, tortious interference with contract, misappropriation of trade secrets, and unfair competition against three former employees, respondents Terrance Coens, Norbert Padfield, and Trudy Elton; their current employer, respondent Davis Typewriter Co., Inc.; and the owner of Davis Typewriter, respondent Larry Davis. Bromen sought a temporary injunction [*2] to enjoin its former employees from working for Davis Typewriter and to enjoin Davis Typewriter from soliciting for employment any other Bromen employees, using any confidential information, or contacting any Bromen customers. The district court denied Bromen's motion and Bromen appeals.

Because Bromen failed to establish that it would be irrevocably harmed absent a temporary injunction, we affirm.

DECISION**I. Standard of Review**

HN1 The district court's decision regarding a motion for a temporary injunction is reviewed for abuse of discretion. *Metro. Sports Facilities Comm'n v. Minn. Twins P'ship*, 638 N.W.2d 214, 220 (Minn. App. 2002), review denied (Minn. Feb. 4, 2002). The reviewing court considers the facts in a light most favorable to the prevailing party. *Id.* **HN2** The purpose of a temporary injunction is to preserve the status quo pending a decision on the merits of the action. *Id.* at 221. **HN3** "The party seeking an injunction must demonstrate that there is no adequate legal remedy and that the injunction is necessary to prevent irreparable harm." *Medtronic, Inc. v. Advanced Bionics Corp.*, 630 N.W.2d 438, 451 (Minn. App. 2001). [*3] Failure to establish irreparable harm is "by itself, a sufficient ground for denying a temporary injunction." *Id.* **HN4** This court reviews the question of whether a party has an

adequate legal remedy de novo. *Id.*

II. Denial of Injunction

HN5 When deciding whether to grant a temporary injunction, the district court considers five factors: (1) the nature and background of the parties' relationship; (2) the relative harm suffered by either party, including whether the moving party would suffer irreparable harm absent a temporary injunction; (3) the relative likelihood of success on the merits; (4) public policy considerations; and (5) the administrative burden created by judicial enforcement and supervision of a temporary injunction. *Id.* (citing *Dahlberg Bros., Inc. v. Ford Motor Co.*, 272 Minn. 264, 274-75, 137 N.W.2d 314, 321-22 (1965)).

HN6 Irreparable harm occurs when a party has no adequate legal remedy. *Medtronic*, 630 N.W.2d at 451.

Mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence [of a temporary injunction], are not enough. The possibility that adequate compensatory or ***4** other corrective relief will be available at a later date, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm.

Miller v. Foley, 317 N.W.2d 710, 713 (Minn. 1982) (quotation omitted). **HN7** Where the injury alleged is primarily economic, grounds for a temporary injunction are not established. See *Morse v. City of Waterville*, 458 N.W.2d 728, 729-30 (Minn. App. 1990), review denied (Minn. Sept. 28, 1990).

HN8 In the area of employment contracts, an irreparable injury is "not shown by the mere fact that the employee has left the service and has entered the employ of a rival concern." *Rosewood Mortg. Corp. v. Hefty*, 383 N.W.2d 456, 459 (Minn. App. 1986) (quotation omitted). Harm has been found where a former employee trades on good will established while working for a former employer or where a professional exercises personal influence over patients or clients of a former employer. *Id.*

The record here includes the employment contracts signed by respondents Coens, Elton, and Padfield. Two of those contracts contain a liquidated damages clause equal to six months of salary. Presumably, were Bromen ***5** to prevail in the underlying action, those damages would go toward compensating Bromen for

the economic loss it claims. Although Bromen seeks protection for confidential information, the nature of its business (acting as a middleman between office supply manufacturers and business customers) does not suggest that Bromen has or seeks to protect highly confidential systems or designs. Most of Bromen's customers are supplied by other office supply vendors as well, and there is no claim made that Bromen has exclusive rights to these customers. In short, Bromen's claim is grounded in financial losses, something readily compensated by a damage award, thus implying that Bromen would not suffer irreparable injury if a temporary injunction is not granted.

The district court balanced the relative harm to Bromen against potential harm to all of the individual respondents, relying on affidavits submitted by them as the source of its conclusions. These respondents generally averred that they would have difficulty finding employment because of the economy, physical limitations, or family responsibilities, and that they are the sole or major source of support for their families. We therefore conclude ***6** that there is adequate support in the record for the district court's determination that Bromen would not suffer irreparable loss and that the balance of harm favors respondents.¹

The district court did not abuse its discretion in denying Bromen's request for a temporary injunction.

Affirmed.

End of Document

¹ Bromen argues that the district court based its decision solely on an analysis of breach of the employment agreements' restrictive covenants. Bromen argues that the court failed to make adequate findings on Bromen's other claims, which allege violations of the *Uniform Trade Secrets Act*, Minn. Stat. § 325C.01-.08 (2002), and tortious interference with contract. Because Bromen failed to sustain its burden of proving irreparable harm on its breach of contract claim on the same facts, we need not decide whether Bromen is entitled to injunctive relief on its other claims.

