

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,  
FIRST DEPARTMENT

R.P.I. Services, Inc. v. Eisenberg

60 A.D.3d 595, 876 N.Y.S.2d 45 (1st Dep't 2008) · Decided March 31, 2009

SUMMARY

The Appellate Division, First Department, affirmed an order denying defendants’ motion for summary judgment insofar as it sought to cap the damages recoverable by the plaintiff. The court held that, on the record presented, the maximum damages could not be determined as a matter of law because the alleged loss from misappropriation, interference, and related claims might include diverted profit opportunities beyond the placement of 12 nurse candidates.

CASE DETAILS

|                       |                                                                                                                                                  |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of New York, Appellate Division, First Department                                                                     |
| WRITING FOR THE COURT | Saxe, J.P.; Buckley, J.; McGuire, J.; DeGrasse, J.; Freedman, J.                                                                                 |
| JURISDICTION          | New York                                                                                                                                         |
| DECIDED               | March 31, 2009                                                                                                                                   |
| DISPOSITION           | affirmed                                                                                                                                         |
| PROCEDURAL POSTURE    | Defendants appealed from an order denying their motion for summary judgment to the extent the order set a maximum amount of recoverable damages. |
| PRECEDENTIAL VALUE    | published intermediate appellate decision                                                                                                        |
| PARTIES               | Defendants v. R.P.I. Services, Inc.                                                                                                              |

TOPICS

- misappropriation of trade secrets
- intentional interference with expectancy
- breach of contract
- damages
- appellate procedure

PRACTICE AREAS

- commercial litigation
- trade secrets
- tortious interference
- contract law
- damages and remedies
- appellate procedure

## QUESTIONS PRESENTED

1. Whether the record permitted the court to set, as a matter of law, a maximum amount of damages recoverable for the alleged diversion of staffing-placement opportunities.

## HOLDINGS

1. The maximum amount of damages could not be set as a matter of law on the record before the court; defendants' motion was therefore properly denied insofar as it sought such a limitation.

## KEY QUOTATIONS

*“On the record before us, the maximum amount of damages cannot be set as a matter of law.”* (60 A.D.3d at 596)

## FACTUAL BACKGROUND

Plaintiff alleged that defendants misappropriated trade secrets and interfered with prospective business relations, including by diverting staffing-placement opportunities involving 12 nurse candidates. Defendants sought to limit any damages to the net profits plaintiff would have earned from those placements. The submitted documents did not establish as a matter of law that plaintiff's recovery was limited to that amount.

## PROCEDURAL HISTORY

Plaintiff asserted claims for misappropriation of trade secrets and tortious interference with prospective business relations against corporate defendants, and breach of contract, breach of loyalty, and misappropriation of trade secrets against individual defendants. Supreme Court, New York County, denied defendants' motion for summary judgment insofar as it sought to impose a maximum limit on damages. The Appellate Division unanimously affirmed and granted plaintiff's motion for leave to supplement the record while denying the motion to strike the reply brief.

## DISPOSITION

affirmed

## CASES CITED

- Duane Jones Co. v. Burke, 306 N.Y. 172 (1954)
- McRoberts Protective Agency v. Lansdell Protective Agency, 61 A.D.2d 652 (1978)