UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

John Goyak & Associates, Inc. v. Terhune

299 F. App'x 739 (9th Cir. 2008) · Decided November 6, 2008

SUMMARY

The Ninth Circuit reviewed a preliminary injunction arising from an alleged breach of a non-solicitation clause and interference with business relationships. It affirmed the injunction in part but remanded for the injunction to conform to the agreement's language and to terminate two years after the agreement expired.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Bea; Beezer; Bybee
JURISDICTION	Federal
DECIDED	November 6, 2008
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the district court's grant and formulation of a preliminary injunction enforcing a contractual non-solicitation provision.
STANDARD OF REVIEW	Abuse of discretion for the grant of a preliminary injunction; the district court's factual findings are reviewed for clear error.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Terhune v. John Goyak & Associates, Inc.

TOPICS

breach of contract · equitable relief · remedies · standard of review · appellate procedure

PRACTICE AREAS

contracts · commercial litigation · remedies · appellate procedure

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by granting a preliminary injunction based on the alleged breach of the contractual non-solicitation provision.

2. Whether the scope and duration of the preliminary injunction conformed to the language and term of the parties' agreement.

HOLDINGS

1. The district court did not abuse its discretion in granting the preliminary injunction because John Goyak & Associates demonstrated probable success on the merits of its breach-of-contract claim and a possibility of irreparable injury absent an injunction.
2. The injunction had to be restructured because its scope was neither consistent nor coterminous with the language of the agreement, and it had to terminate two years after the agreement expired.

KEY QUOTATIONS

> *“Because JG & A demonstrated a combination of probable success on the merits of its breach of contract claim and the possibility of irreparable injury absent a preliminary injunction, the district court did not abuse its discretion by granting the injunction.”*

> *“The scope of the district court’s preliminary injunction, however, is neither consistent nor coterminous with the language of the agreement.”*

FACTUAL BACKGROUND

In 2006, John Goyak & Associates, Inc. entered into a one-year Contractor Consulting Agreement with J & E Consulting, Inc., which contained a non-solicitation clause. John Goyak & Associates alleged that the Terhunes solicited work from one of its clients and attempted to interfere with its business relationship with that client. It sought an injunction barring solicitation, business dealings with its clients, and interference with its client relationships for two years.

PROCEDURAL HISTORY

John Goyak & Associates, Inc. sought a preliminary injunction against the Terhunes based on alleged solicitation of a client and interference with business relationships. The district court granted the injunction, and the Terhunes appealed. The Ninth Circuit affirmed the grant of injunctive relief in part but reversed and remanded the scope of the injunction for modification.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

The district court was directed to restructure the preliminary injunction so that its scope reflects the language of the agreement and to provide that the injunction terminates two years from the expiration of the agreement.

CASES CITED

- Nike, Inc. v. McCarthy, 379 F.3d 576, 580 (9th Cir. 2004)

OPINION

John Goyak & Associates, Inc. v. Terhune 299 F. App'x 739

PER CURIAM.

MEMORANDUM **

In 2006, John Goyak & Associates, Inc. (“JG & A”) entered into a one-year Contractor Consulting Agreement with J & E Consulting, Inc. The agreement included a non-solicitation clause. JG & A contends that the Terhunes solicited work from a JG & A client and attempted to interfere with JG & A’s business relationship with its client. JG & A sought a preliminary injunction to bar the Terhunes for two years from soliciting or engaging in business with JG & A’s clients and from interfering with JG & A’s business relationships with its clients. The district court issued the preliminary injunction. We review of a district court’s grant of a preliminary injunction for abuse of discretion. Nike, Inc. v. McCarthy, 379 F.3d 576, 580 (9th Cir.2004). Here, the district court applied the correct legal standard, and the district court’s factual findings are supported by the record and are not clearly erroneous. Because JG & A demonstrated a combination of probable success on the merits of its breach of contract claim and the possibility of irreparable injury absent a preliminary injunction, the district court did not abuse its discretion by granting the injunction. See id. The scope of the district court’s preliminary injunction, however, is neither consistent nor coterminous with the language of the agreement. Therefore, we remand the case to the district court to restructure the injunction so that its scope reflects the language of the agreement, and, further, that the injunction terminates two years from the expiration of the agreement. Each party bears its own costs on appeal. AFFIRMED in part, REVERSED and REMANDED in part. This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.