

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.

OPINION

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.

