

SUPREME COURT OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT

736 N.Y.S.2d 591; 2002 N.Y. App. Div. LEXIS 831

January 29, 2002, Filed

NOTICE:

[\*\*1]

THE LEXIS PAGINATION OF THIS DOCUMENT IS SUBJECT TO CHANGE PENDING THE RELEASE OF THE FINAL PUBLISHED VERSION.

COUNSEL: For Plaintiff-Appellant: Andrew G. Lipkin.

For Defendants-Respondents: Lisa Solomon.

JUDGES: Nardelli, J.P., Andrias, Saxe, Ellerin, Marlow, JJ.

OPINION: [\*592]

Order, Supreme Court, New York County (Richard Lowe III, J.), entered October 17, 2001, which denied plaintiff's motion for a preliminary injunction, unanimously affirmed, without costs.

The motion court properly exercised its discretion in denying the motion for a preliminary injunction, since plaintiff failed to establish a likelihood of success on the merits, that it will suffer irreparable injury unless the

injunction is granted and that the equities balance in its favor (see, *W.T. Grant Co. v Srogi*, 52 N.Y.2d 496, 517, 438 N.Y.S.2d 761, 420 N.E.2d 953). Plaintiff has not made the showing requisite to the relief sought, that the names of the clients serviced by defendant employee while employed by plaintiff are entitled to trade secret protection, where the identities of those clients are readily ascertainable, or that the employee's services were unique or extraordinary (see, *Reed Roberts Assocs. v Strauman*, 40 N.Y.2d 303, 308, 386 N.Y.S.2d 677, 353 N.E.2d 590). [\*\*2] Moreover, the balance of equities is in defendants' favor and irreparable harm has not been shown where money damages would fully compensate plaintiff for, any lost profit attributable to defendant employee's complained of conduct.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: JANUARY 29, 2002