

222 A.D.2d 1026
Supreme Court, Appellate Division,
Fourth Department, New York.

DELOITTE & TOUCHE,
LLP, Respondent–Appellant,
v.
Charles W. CHIAMPOU and Robert J. Travis,
Appellants–Respondents. (Appeal No. 1.)

Dec. 22, 1995.

Attorneys and Law Firms

****679** Zdarsky, Sawicki & Agostinelli by Joseph
Zdarsky, Buffalo, for appellants-respondents.

Damon and Morey by Kenneth Africano, Buffalo, for
respondent-appellant.

Opinion

***1026 MEMORANDUM:**

Supreme Court did not abuse its ***1027** discretion in granting plaintiff's motion for a preliminary injunction to enforce the covenant not to compete in defendants' partnership agreements (*see, Gelder Med. Group v. Webber*, 41 N.Y.2d 680, 394 N.Y.S.2d 867, 363 N.E.2d 573; *Karpinski v. Ingrassi*, 28 N.Y.2d 45, 320 N.Y.S.2d 1, 268 N.E.2d 751; *Kindman & Co. v. Stollar*, 151 A.D.2d 393, 543 N.Y.S.2d 81; *Young & Co. v. Black*, 97 A.D.2d 369, 466 N.Y.S.2d 10, *appeal dismissed* 61 N.Y.2d 712, 472 N.Y.S.2d 620, 460 N.E.2d 1105). The court properly found that plaintiff had made a sufficient showing to

warrant such relief. The court also properly exempted from the preliminary injunction six of plaintiff's former clients who had voluntarily and without solicitation sought out defendants after defendants left plaintiff's employ (*see, Kindman & Co. v. Stollar, supra; Young & Co. v. Black, supra*). While this appeal was pending, we granted defendants' motion to increase the number of plaintiff's former clients exempted from the preliminary injunction to 34 for the same reason (*see, CPLR 5518*). In order "to maintain a status quo that will encourage the parties to quickly resolve their differences at a trial on the merits" (*Young & Co. v. Black, supra*, at 370, 466 N.Y.S.2d 10), we modify the order on appeal by deleting the second ordering paragraph therefrom and substituting in its place the following language: "ORDERED, that, ****680** pending final determination on the merits, the preliminary injunction shall not apply to the 34 clients of plaintiff previously excluded from the preliminary injunction by order of this Court entered January 19, 1995" (*see, Karpinski v. Ingrassi, supra*, at 51–52, 320 N.Y.S.2d 1, 268 N.E.2d 751).

Order unanimously modified on the law and as modified affirmed without costs in accordance with the following (Appeals from Order of Supreme Court, Erie County, Glownia, J.—Preliminary Injunction.)

GREEN, J.P., and PINE, WESLEY, BALIO and BOEHM, JJ., concur.

All Citations

222 A.D.2d 1026, 636 N.Y.S.2d 679 (Mem)