

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

IBRAHIM HAMDAN, and	:	April Term, 2001
NORTHEAST TAXI COACH, INC.	:	
Plaintiffs,	:	No. 4437
	:	
v.	:	Commerce Case Program
	:	
HASSAN ALWALIDI, and	:	Control No. 042719
NORTHEAST COACH, INC.	:	
Defendants.	:	

ORDER

AND NOW, this 2nd day of November, 2001, upon the consideration of the Petition of Plaintiffs, Ibrahim Hamdan (“Hamdan”) and Northeast Taxi Coach, for a Preliminary Injunction, the response of Hassan Alwalidi (“Alwalidi”) and Northeast Coach, Inc., the respective memoranda and all other matters of record, and after a hearing, and in accordance with the Findings of Fact, Discussion and Conclusions of Law filed contemporaneously in support of the Order, it is hereby ORDERED that the Preliminary Injunction is DENIED.

BY THE COURT:

JOHN. W. HERRON, J.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

IBRAHIM HAMDAN, and	:	April Term, 2001
NORTHEAST TAXI COACH, INC.	:	
Plaintiffs,	:	No. 4437
	:	
v.	:	Commerce Case Program
	:	
HASSAN ALWALIDI, and	:	Control No. 042719
NORTHEAST COACH, INC.	:	
Defendants.	:	

**FINDINGS OF FACT, DISCUSSION AND CONCLUSIONS OF LAW IN SUPPORT OF
ORDER DENYING PLAINTIFFS' PETITION FOR PRELIMINARY INJUNCTION**

Plaintiffs Ibrahim Hamdan (“Hamdan”) and Northeast Taxi Coach, seek to restrain and enjoin Hassan Alwalidi (“Alwalidi”) and Northeast Coach, Inc, from, *inter alia*, disposing of the assets of Northeast Taxi Coach which includes the telephone number 215-333-8600, and the PUC approved taxicab color scheme. For the reasons stated below, this court denies the petition for preliminary injunction.

FINDINGS OF FACT

1. Hamdan is an adult residing at 3247 Frankford Avenue, Philadelphia, PA 19134.
2. Northeast Taxi Coach is a Pennsylvania Corporation doing business at 3247 Frankford Avenue, Philadelphia, Pa 19134.
3. Alwalidi is an adult residing at 6500 Torresdale Avenue, Philadelphia, PA 19135.

4. Northeast Coach, Inc. is a Pennsylvania corporation doing business at 6500 Torresdale Avenue, Philadelphia, PA 19135.

5. The telephone number 215-333-8600 is, and has always been, in Alwalidi's name and is billed at his home address. (N.T. 8/20/01, 55).

6. Hamdan and Alwalidi entered into an agreement to create a corporation, Northeast Taxi Coach, Inc. dated January 18, 2000. (N.T. 8/20/01, 18-20).

7. Hamdan and Alwalidi entered into a second agreement on January 21, 2000, itemizing the terms to which they agreed in forming their partnership. (N.T. 9/6/01, 25; Exhibit P-1).

8. Articles of Incorporation were drafted and signed by Hamdan and Alwalidi for the creation of Northeast Taxi Coach. (N.T. 8/20/01, 92).

9. Alwalidi denies that he signed the Articles of Incorporation. (N.T. 8/20/01, 64).

10. Hamdan testified that he gave Alwalidi, pursuant to the agreements, \$1000 and a 1994 Chevrolet, however, Alwalidi denied receiving either the money or the vehicle. (N.T. 8/20/01, 25, 82-83).

11. From January 2000 to January 2001, Northeast Taxi Coach's offices were originally based in Hamdan's garage, located at 3247 Frankford Avenue, Philadelphia, Pennsylvania. (N.T. 8/20/01, 23).

12. In January 2001, the offices of Northeast Taxi Coach, Inc. were moved to 6500 Torresdale Avenue. (N.T. 8/20/01, 89).

13. The 2001-2002 Yellow Pages contained two listings for Northeast Taxi, one at 3247 Frankford Avenue, Philadelphia, Pennsylvania, and one at 6912 State Road, Philadelphia, Pennsylvania. (Exhibit P-3).

14. Hamdan, who originally was charging \$525 per week, was forced to reduce his lease rates

to \$450 per week to retain drivers. (N.T. 9/6/01, 57-60).

15. Hamdan testified that after his break-up with Alwalidi his business was doing “good.” (N.T. 9/6/01, 30-35).

DISCUSSION

Under Pennsylvania law, a court will grant a preliminary injunction, if:

1. The petitioner has a clear right to relief;
2. The preliminary injunction is necessary to prevent immediate and irreparable harm that cannot be compensated by monetary damages;
3. A greater injury will result by refusing to issue the injunction;
4. The injunction will restore the parties to the status quo as it existed prior to the wrongful conduct; and
5. The wrong is actionable and the injunction is reasonably suited to abate that wrong.

School Dist. of Wilkinsburg v. Wilkinsburg Educ. Ass’n, 542 Pa. 335, 338 667 A.2d 5, 6 at n.2

(1995) (citing New Castle Orthopedic Assoc. v. Burns., 481 Pa. 460, 392 A.2d 1383 (1978)). In the instant case, the plaintiffs have failed to meet the first and second prongs of the preliminary injunction test. Because “[t]he requisites of a preliminary injunction are cumulative, and if one element is lacking, relief may not be granted,” Norristown Mun. Waste Auth. v. West Norriton Twp. Mun. Auth., 705 A.2d 509, 512 (Pa. Commw. Ct. 1998), there is no need to consider the third, fourth and fifth prongs, and the Court has denied the motion for a preliminary injunction.

A. No Clear Right to Relief

In determining the petitioner’s right to a preliminary injunction, it is essential that “the activity sought to be restrained is actionable, and that the injunction issued is reasonably suited to abate such activity.” All-Pak, Inc. v. Johnston, 694 A.2d 347, 350 (Pa.Super.Ct. 1996) (quoting Singzon v. Dept.

of Public Welfare, 496 Pa. 8, 11, 436 A.2d 125, 127 (1981)). While “a party seeking a preliminary injunction is not required to establish his or her claim absolutely,” Boyle by Boyle v. Pennsylvania Interscholastic Athletic Ass’n., 676 A.2d 695, 699 (Pa. Commw. Ct. 1996) (citation omitted), “unless the plaintiff’s right is clear and the wrong is manifest, a preliminary injunction will generally not be awarded.” All-Pak, Inc., 694 A.2d at 350 (citation omitted).

Here, the plaintiffs’ right to relief is far from clear. The plaintiffs argue that “an injunction is necessary... to protect [Hamdan’s] interest in this corporation and the assets that belonged to it, including the telephone number 215-333-8600.” Pls’ Mem of Law at 6. However, based on the testimony given and the limited evidence presented, it is far from clear whether in fact plaintiff has a right to the telephone number as it was never formally transferred to either Northeast Taxi Coach, Inc., or to Hamdan.

Furthermore, the plaintiffs argue that the wrong here is manifest because “[Alwalidi]... was able to successfully transfer the assets of a business that the parties had grown together as per their agreement.” This court disagrees. The only agreement that exists between the parties discussing such assets is the January 21, 2000 agreement. Although the agreement lists two assets to be transferred to Northeast Taxi Coach, Inc., namely the 1994 Chevrolet and \$1000, there is no mention of the 215-333-8600 phone number or the PUC color scheme in the agreement. Furthermore, since Alwalidi already owned the 215-333-8600 number, it would be impossible for him to “successfully transfer” it back to himself again. Consequently, without a clear right to relief, the petition has been denied.

B. The Relief Is Not Necessary Because There is No Preventable Immediate and Irreparable Harm Which Could Not Be Compensated by Damages.

A plaintiff has the burden of showing that the harm to be prevented cannot be remedied by damages, Schaeffer v. Frey, 403 Pa.Super. 560, 565,589 A.2d 752, 755 (1991), Churchill Corp., v.

Third Century, Inc., 396 Pa. Super. 314, 328, 578 A.2d 532, 539 (1990), and that any harm to the plaintiff “can be estimated only by conjecture and not by an accurate pecuniary standard.” West Penn Specialty MSO, Inc.v. Nolan, 737 A.2d 295, 299 (Pa.Super. 1999).

Here, plaintiffs have not met their burden. They argue that, although these damages may be “partially... recovered by an action for money damages...,the nature of the business...does not allow one to accurately calculate the true damages.” Pls’ Mem of Law at 3. However, this court finds that it is not the “nature of the business” which prevents an accurate calculation of damages, but rather it is the plaintiffs’ own lack of documentary evidence to support any such claim. Not only has there been no evidence presented as to any alleged losses, but, Hamdan admits there are no records showing how many calls were even dispatched from his business. See N.T. 9/6/01, 68.

Moreover, there is little evidence as to whether there exists immediate and irreparable harm to be prevented. Although Hamdan claims he lost business from Alwalidi’s ongoing use of the 215-333-8600 telephone number, there is testimony which suggests that there are significant alternative sources for business, namely “pick-ups” for plaintiffs’ taxis such as those existing at the Philadelphia International Airport, Center City office complexes, as well as local train stations. See N.T. 9/6/01, 66. Therefore, plaintiffs have failed to demonstrate immediate or irreparable harm which they will suffer. However, if any harm was suffered by plaintiffs, it would best be remedied by monetary damages. As a result, the plaintiffs have not met the second requirement for a preliminary injunction.

CONCLUSIONS OF LAW

1. The plaintiffs have no clear right to relief.
2. The preliminary injunction is not necessary because there is no preventable immediate and irreparable harm that cannot be compensated by monetary damages.

BY THE COURT:

DATE: November 2, 2001