

# EXHIBIT B

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK.

Present:

**HON. STEPHEN A. BUCARIA**

Justice

TALON AIR, INC.,

TRIAL/IAS, PART 1  
NASSAU COUNTY

Plaintiff,

INDEX No. 603033/17

-against-

MOTION DATE: 7/11/17  
Motion Sequence 001

PAUL ST. LUCIA,

Defendant.

The following papers read on this motion:

Notice of Motion.....	X
Affirmation in Support.....	X
Affirmation in Opposition.....	X

Motion by plaintiff Talon Air, Inc. for a preliminary injunction is **granted** to the extent that the temporary restraining order **granted** on May 16, 2017 shall continue pending final judgment in the action.

This is an action for breach of an employment agreement. Plaintiff Talon Air is engaged in the business of chartering private air travel. Talon leases private jet and Turbo-prop planes from the owners of the aircraft and then offers travel on the planes to end-use customers. Talon also performs repair and maintenance services on the jets pursuant to its lease agreements with the aircraft owners. Talon alleges that its business model is "unique" and that its customers list was developed over many years.

From August 4, 2009 until March 28, 2017, defendant Paul St. Lucia worked for Talon, rising from sales associate to vice president of sales. St. Lucia signed a written employment which requires the employee to keep proprietary information confidential and to refrain from soliciting Talon's customers indefinitely.

TALON AIR v PAUL ST. LUCIA

Index No.: 603033/17

Talon alleges that St. Lucia solicited business for Talon competitors while still employed at Talon. Talon claims that St. Lucia solicited the customers through his Talon and personal email addresses. Talon alleges that St. Lucia also solicited business from aircraft owners. Talon alleges that it learned of St. Lucia's misconduct through a third party technology company which oversees Talon's website.

This action was commenced on April 17, 2017. Plaintiff asserts claims for breach of the employment agreement, misappropriation of confidential information, and breach of the fiduciary duty of loyalty.

By order to show cause dated May 16, 2017, plaintiff is moving for a preliminary injunction, restraining defendant from disclosing confidential information, initiating contact with Talon's customers, directing defendant to return confidential material, and ordering expedited discovery. In the order to show cause, the court issued a temporary restraining order, restraining defendant from disclosing Talon's confidential information, initiating contact with any of Talon's customers with whom defendant dealt during the course of his employment, and soliciting Talon's employees. Defendant was also directed to return documents containing confidential information within 72 hours of the order.

In support of the motion, plaintiff submits, among other documents, an affidavit signed by defendant in a similar lawsuit which Talon commenced against another former employee, Michael Giordano, in January 2013. In the affidavit, defendant parrots Talon's claims with regard to the time and effort to develop its customers list and the uniqueness of its business model.

In opposition, defendant asserts that Talon's customer information, including the identities of customers who can afford to charter private jets, is publicly available. Defendant asserts that he was the one who was responsible for developing Talon's business and that he resigned because Talon reduced his commissions and directed customers not to contact him directly.

In order to be entitled to a preliminary injunction, plaintiff must show a likelihood of success on the merits, danger of irreparable injury in the absence of an injunction, and a balance of the equities in their favor (*Aetna Ins. Co. v Capasso*, 75 NY2d 860 [1990]).

As a preliminary matter, the court notes that defendant is not judicially estopped from contradicting the affidavit which he gave in the Giordano case. Because defendant was not a party to that case, he could not obtain a judgment in his favor (*Becerril v Dept. of Health*, 110 AD3d 517, 519 [1<sup>st</sup> Dept. 2013]). Nor are the admissions contained in the Giordano affidavit binding upon defendant.

TALON AIR v PAUL ST. LUCIA

Index No.: 603033/17

Nevertheless, the court concludes that plaintiff has made a sufficient showing to be entitled to a preliminary injunction. Accordingly, plaintiff's motion for a preliminary injunction is **granted** to the extent that the temporary restraining order issued on May 16, 2017 shall continue pending final judgment in the action.

So ordered.

Date:

21 July, 2017

Stephen A. Bucaria  
J.S.C.

**ENTERED**

JUL 28 2017

NASSAU COUNTY  
COUNTY CLERK'S OFFICE