

JOHN LAWYER
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Attorneys for Plaintiff

JOHN DOE,

Plaintiff,

v.

JANE DOE,

Defendants.

SUPERIOR COURT OF NEW JERSEY
[insert] COUNTY
[insert] COUNTY

CHANCERY DIVISION

DOCKET NO. _____

CIVIL ACTION

VERIFIED COMPLAINT

Plaintiff, John Doe, maintaining its principal place of business at [insert address], by way of verified complaint against the defendants, say:

THE PARTIES

. The plaintiff is a limited liability company and is authorized to do business in the State of [insert]. It maintains its principal place of business at [insert address].

. The defendant Jane Doe is, upon information and belief, a United States Citizen and resident of the State of [insert] and he resides at [insert address].

. Upon information and belief, the defendant ABC Company is a corporation lawfully doing business in the State of New Jersey and it maintains its principal place of business at [insert address].

THE DEFENDANT DOE=S EMPLOYMENT

. The plaintiff is in the business of [insert].

. Previously, the plaintiff had been known by the name of A[insert]@ however, that entity

was purchased by an entity known as [insert]. Subsequently, [employer] created a subsidiary called AJohn Doe LLC@ who is the plaintiff in this matter.

. On or about [insert date], the plaintiff hired defendant Doe. At the time of his hire, defendant Doe=s rate of pay was \$[insert] per hour and he was hired to work in the plaintiff=s warehouse.

. Subsequently, the defendant Doe was assigned other duties which included, but were not limited to, inventory and shipping for certain component parts. In accordance with this latter assignment, defendant Doe was educated as to all aspects of the plaintiff=s business such as purchasing strategies and information pertaining to what customers bought what products.

. Additionally, defendant Doe, in order to fulfill his employment duties, was provided with inventory sheets, various reports, and customer order reports.

. In or about [insert date], the plaintiff was made aware by a customer (known as [insert]) that it was being solicited by defendant Jane Doe for the purpose of selling products to [insert], who is a manufacturer. [insert] made an inquiry with the plaintiff as to who Doe Company was however, the plaintiff had no knowledge of that entity. Appended hereto as **Exhibit 1** is a true copy of a fax transmission received from [insert] dated [insert date].

. Subsequently, on or about [insert], the plaintiff was contacted by a customer known as [insert] for the purpose of doing business with the plaintiff [insert] requested samples from the plaintiff for purpose of ordering products.

. Some time later, [insert] again contacted the plaintiff and advised that it received two sets of samples; one from the plaintiff and another from defendant Jane Doe. [insert] represented that it had never had any contact with defendant Doe Company and was not aware of who that entity was.

. A few days later, the plaintiff then received a telephone call from a customer known as A[insert].@ [insert] advised the plaintiff that it had received a catalogue from defendant Doe Company which was unsolicited. [insert] represented that it was unsure as to how defendant Doe Company had learned of it. [insert] had been exclusively doing business with the plaintiff for over [insert] years at the time.

. On or about [insert], the plaintiff received a telephone call from a manufacturer known as A[insert].@ Previously, [insert] had only sold materials to the plaintiff who acted as the agent for [insert] had advised the plaintiff that defendant Doe Company had solicited [insert] in order to sell materials to it identical to materials sold by the plaintiff.

. At or about this same time, in the beginning of [insert], the plaintiff then received a telephone call from a manufacturer known as A[insert].@ [insert] is a [insert] business and it was seeking samples of hooks and grommets. Subsequently, [insert] contacted the plaintiff and placed an order for hooks. [insert] also advised that it never received a grommet sample from the plaintiff although it did receive such a sample from defendant Doe Company.

. The defendant Doe was responsible for forwarding samples to the plaintiff=s customers.

. Subsequently, on [insert], defendant Doe quit his employ with the plaintiff because defendant Doe represented he was going to work for a boat detailing business he was either establishing or had previously established.

. The plaintiff, then in the midst of investigating the identity of defendant Doe Company, telephoned defendant Doe Company to inquire as to their identity and to speak with a representative.

. The plaintiff=s president, John Doe, telephoned defendant Jane Doe on [insert].

. Defendant Doe answered the telephone.

. Defendant Doe, during that telephone call, stated to John Doe that he was Aworking with his sisters.@

. Additionally, it was discovered that defendant Doe=s home address was the same address as Doe Company=s place of business.

. John Doe then asked defendant Doe whether he was in competition with the plaintiff and in response, defendant Doe stated he did not think it was a Asuch a big deal@ to open his own business and he furthermore commented by asking whether Ait was a problem@ to the plaintiff if he opened his own business.

. A further investigation conducted by the plaintiff revealed that defendant Doe Company was contacting customers unknown to the general public and more specifically, customers with whom the plaintiff had been doing business with for quite some time. The identity and contact numbers for these customers had been provided to the defendant Doe while he was in the plaintiff=s employ.

. Additionally, the plaintiff determined that product literature, Doe Company=s website, promotional materials, and samples, were identical to those utilized or created by the plaintiff.

. Moreover, the plaintiff learned that the products being sold by defendant Doe Company was identical to those products sold by the plaintiff.

. Finally, the plaintiff learned that previously, on [insert date], one day before defendant Doe had quit his employ with the plaintiff, defendant Doe Company had faxed a solicitation letter to a manufacturer who does business with the plaintiff ([insert]) in which Doe Company sought to do business with [insert]. A true copy of same is appended hereto as **Exhibit 2**.

COUNT ONE - BREACH OF DUTY OF LOYALTY

. Defendant Doe owed a duty of loyalty to the plaintiff such that he would not act in direct

competition to the plaintiff.

. Defendant Doe breached this duty by entering into direct competition with the plaintiff while he was in the plaintiff=s employ, by misappropriating the plaintiff=s business opportunities for his own interests, by contacting the plaintiff=s customers for his own purposes, and by misappropriating confidential information for his own use.

. As a result of said breach, the plaintiff has been damaged.

WHEREFORE, the plaintiffs demand judgment against the defendants:

- . Restraining them from operating their business including, but not limited to, contacting any of the plaintiff=s customers, pending a further order of the court;
- . Compelling the defendants to provide a full and complete accounting of all customers contacted, engaged, solicited, and with whom the defendants have done business;
- . Compelling a complete accounting of all sales made and profits earned by the defendants;
- . Compelling the defendants to disclose what inventory is currently in their possession and how they obtained said inventory; and
- . For compensatory damages, costs, interest, counsel fees any other relief the court deems is just and necessary.

COUNT TWO - BREACH OF DUTY NOT TO COMPETE

30. The plaintiff hereby repeats the allegations of paragraphs 1-15 of this verified complaint as if same was fully set forth herein.

31. Defendant Doe=s actions are in clear violation of a duty not to compete with the plaintiff since he established a competing business while in the plaintiff=s employ, contacted the plaintiff=s customers for his own purposes while he was in the plaintiff=s employ, misappropriated marketing and sample materials for his own benefit, and,

misappropriated business leads for his own purposes.

32. The actions of the defendants have caused and will continue to cause great damage to the plaintiff if not remedied by this court.

33. If not remedied, the defendants shall be unjustly enriched to the detriment of the plaintiff.

WHEREFORE, the plaintiff demands judgment against the defendants:

- . Restraining them from operating their business including, but not limited to, contacting any of the plaintiff's customers, pending a further order of the court;
- . Compelling the defendants to provide a full and complete accounting of all customers contacted, engaged, solicited, and with whom the defendants have done business;
- . Compelling a complete accounting of all sales made and profits earned by the defendants;
- . Compelling the defendants to disclose what inventory is currently in their possession and how they obtained said inventory; and
- . For compensatory damages, costs, interest, counsel fees any other relief the court deems is just and necessary.

COUNT THREE - MISAPPROPRIATION OF TRADE SECRETS/CONFIDENTIAL INFORMATION

34. The plaintiff hereby repeats the allegations of paragraphs 1-33 of this verified complaint as if same was fully set forth herein.

35. Defendant Doe was made privy to trade secrets and/or confidential information when he was hired by the plaintiff.

36. During his employ defendant Doe misappropriated these trade secrets and/or confidential information for his own purposes and/or to advance the interests of a business he was operating while he was employed by the plaintiff.

33. As a result of said misappropriation, the plaintiff has been damaged.

WHEREFORE, the plaintiff demands judgment against the defendants:

- . Restraining them from operating their business including, but not limited to, contacting any of the plaintiff=s customers, pending a further order of the court;
- . Compelling the defendants to provide a full and complete accounting of all customers contacted, engaged, solicited, and with whom the defendants have done business;
- . Compelling a complete accounting of all sales made and profits earned by the defendants;
- . Compelling the defendants to disclose what inventory is currently in their possession and how they obtained said inventory; and
- . For compensatory damages, costs, interest, counsel fees any other relief the court deems is just and necessary.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, John Lawyer, Esq., is hereby designated as trial counsel in the within matter for the plaintiff.

CERTIFICATION

Pursuant to R. 4:5-1, I hereby certify that the matter in controversy is not the subject of any other action pending in any court or a pending arbitration proceeding; and further that no other action or arbitration proceeding is contemplated; and further that there are no other parties who should be joined in this action.

Dated: March 31, 2003

JOHN LAWYER, ESQ.
Attorney for Plaintiff

VERIFICATION

