

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
18-CVS-6276

JEREMY LECLAIR

Plaintiff,

vs.

**ORDER DENYING PLAINTIFF'S  
MOTION FOR PRELIMINARY  
INJUNCTION**

GEA INC., LESLIE FARKAS, and  
VALARIA DEVINE

Defendants.

**THIS CAUSE** came before the undersigned judge on May 21, 2018 at 2:30 p.m. for hearing on Plaintiff's Motion for a Preliminary Injunction, pursuant to Rule 65 of the North Carolina Rules of Civil Procedure and the Defendants' Motion to Dismiss. After reviewing the Plaintiff's Motion, Plaintiff's Brief in support of his Motion and attached exhibits, the Defendants' Motion and Defendants' Brief in Opposition and attached exhibits, the oral arguments of Plaintiff and counsel for Defendants' at hearing, and applicable legal authorities, the Court makes the following:

**FINDINGS OF FACT**

1. The parties were present in open court. Plaintiff appeared *pro se*. Defendants Farkas and Devine were represented by Mr. Rob Wilson. Defendant GEA, Inc. was represented by Mr. Fenton Erwin.
2. Plaintiff filed this action on March 27, 2018 alleging multiple claims against Defendants based on an intellectual property licensing agreement, stock purchase agreement and a non-compete agreement. Plaintiff sought preliminary and permanent

injunctive relief enjoining the Defendants' from allegedly violating the non-compete agreement.

3. A hearing was scheduled, and held, on May 21, 2018 to address Plaintiff's Motion for Preliminary Injunction *and* Defendants' Motion to Dismiss.
4. On May 21, 2018 prior to the hearing, Plaintiff filed a First Amended Complaint, per Rule 15(a) of the North Carolina Rules of Civil Procedure.
5. Previously, on November 3, 2016, Plaintiff filed a complaint in the Superior Court of Mecklenburg County. (*See* Complaint in 16-CVS-19851) It alleged essentially the same causes of action and was based upon the same facts as alleged in the instant lawsuit, including the intellectual property licensing agreement, stock purchase agreement and a non-compete agreement.
6. In that complaint, Plaintiff also sought a temporary restraining order, a preliminary injunction, and a permanent injunction enjoining Defendants from alleged violations of the intellectual property licensing agreement, stock purchase agreement and the non-compete agreement.
7. The Honorable Eric Levinson denied that preliminary injunction motion on November 15, 2016 finding that the Plaintiff failed to meet his burden of forecasting evidence to show that there is probable cause that he would prevail on the merits of his claim.
8. That action was subsequently dismissed.
9. On April 6, 2017, Plaintiff LeClair and Source.Auction, LLC filed a second Complaint against Defendants Farkas and DeVine in the United States District Court for the Western District of North Carolina. (*See* Complaint in 3:17-cv-00185-RJC-DCK) In

that complaint, Plaintiff and Source.Auction, LLC sought a preliminary injunction as well as various claims of substantive relief based on the same set of operative facts as in the original state court action 16-CVS-19851 including claims for alleged violations of the intellectual property licensing agreement, stock purchase agreement and the non-compete agreement.

10. On February 21, 2018, the Honorable United States District Judge Robert Conrad granted Farkas' and Devine's Motion to Dismiss LeClair's and Source.Auction, LLC's complaint, in its entirety, for failure to state a claim. Plaintiff LeClair's and Source.Auction, LLC's requested injunctive relief was denied as moot.

11. Plaintiff has not provided a forecast of evidence showing there is a reasonable apprehension of irreparable harm or loss if the alleged actions and failures to act are not enjoined by this Court.

12. Plaintiff has not provided a forecast of evidence showing there is probable cause that he will prevail on the merits.

#### CONCLUSIONS OF LAW

13. The Court has personal jurisdiction over the parties and subject matter jurisdiction over the claims.

14. Plaintiff has not shown that there is probable cause that he will prevail upon the merits of his claims.

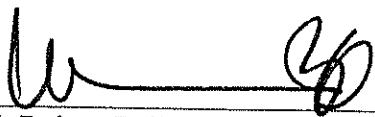
15. Plaintiff has not shown a reasonable apprehension of irreparable loss or harm unless injunctive relief is granted by this Court.

16. Plaintiff's requested relief is barred by *res judicata*.

17. Defendants' Motion to Dismiss the original complaint was withdrawn without prejudice because of the filing of the amended complaint. Defendants may file a new Motion to Dismiss the amended complaint.

Based on the foregoing **FINDINGS OF FACT** and **CONCLUSIONS OF LAW**, it is hereby **ORDERED** that Plaintiff's Motion for a Preliminary Injunction is **DENIED**.

SO ORDERED, this the 7 day of June, 2018.

  
\_\_\_\_\_  
W. Robert Bell, Judge Presiding

**CERTIFICATE OF SERVICE**

This is to certify that I have this date served the following parties in interest with a copy of the attached ***Order Denying Plaintiff's Motion for Preliminary Injunction*** by hand delivery and/or depositing a copy of same in an official depository under exclusive care and custody of the United States Post Office in Charlotte, North Carolina with adequate postage pre-paid, addressed to the following:

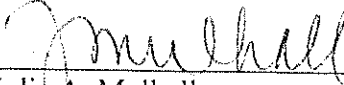
Jeremy LeClair  
Plaintiff  
2054 Hacienda Blvd., # 5233  
Hacienda Heights, CA 91745

C. Rob Wilson  
Attorney for Defendants Farkas and Devine  
Hedrick Gardner Kincheloe & Garofalo, LLP  
6000 Fairview Road, Suite 600  
Charlotte, NC 28204

Fenton R. Erwin, Jr.  
Attorney for Defendant GEA Inc.  
Erwin, Bishop, Capitano & Moss, PA  
4521 Sharon Road, Suite 350  
Charlotte, NC 28204

Mecklenburg County Clerk of Superior Court – Criminal Division  
Mecklenburg County Courthouse  
832 East Fourth Street  
Charlotte, NC 28202

This the 11th day of June, 2018.

  
\_\_\_\_\_  
Julie A. Mulhall  
Superior Court Judicial Assistant II  
26th Judicial District – Mecklenburg County  
832 East Fourth Street, Suite 9600  
Charlotte, NC 28202

*On behalf of:*  
Hon. W. Robert Bell,  
Senior Resident Superior Court Judge