

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

FEMMEPAL CORPORATION,

Plaintiff,

v

Case No. 15-146019-CK
Hon. Wendy Potts

WEL-TEK INTERNATIONAL
CORPORATION, et al

Defendants.

OPINION AND ORDER RE: PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

At a session of Court
Held in Pontiac, Michigan

On
APR 16 2015

On March 13, 2015, Plaintiff Femmepal Corporation filed this action claiming it is a staffing company, it placed workers with Defendant Wel-Tek International Corporation, and Wel-Tek owes \$379,257.07 in unpaid invoices. The complaint asserts claims for breach of contract, conversion, unjust enrichment, and account stated. On April 3, Femmepal moved the Court to enter a temporary restraining order forcing Defendants to escrow certain disputed funds. Femmepal claimed in its motion that Wel-Tek agreed that it would receive funds from nonparty ZeroChaos, keep 4% of the funds, and forward the rest to Plaintiff. It further claimed that Wel-Tek would be receiving \$94,000 from ZeroChaos on April 8, that those funds belong to Plaintiff, and Defendants would convert the funds if the Court did not enjoin them. On April 6, the Court entered an order denying the motion.

Femmepal then filed a motion for preliminary injunction, which it noticed for hearing on April 15, 2015. The Court notified the parties that it could not hear Femmepal's motion on that date, and Femmepal renoticed the motion for April 22, 2015. Defendants then filed an emergency motion seeking to adjourn the April 22nd hearing because their counsel is not available. In lieu of a further adjournment of Femmepal's motion, the Court is exercising its discretion to decide the motion without a hearing. MCR 2.119(E)(3).

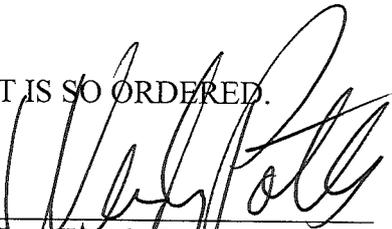
When deciding a motion for injunctive relief, the Court considers (1) whether the applicant will suffer irreparable injury if the injunction is not granted; (2) the likelihood that the applicant will succeed on the merits; (3) whether harm to the applicant in the absence of relief outweighs the harm to the opposing party if the injunction is granted; and (4) the harm to the public if the injunction issues. *Thermatool Corp v Borzym*, 227 Mich App 366, 376 (1998). The Court should also consider whether granting an injunction is necessary to preserve the status quo before a final hearing or whether it will grant one of the parties final relief before a decision on the merits. *Thermatool, supra*.

Although Femmepal appears to have a likelihood of success on the merits of its claims, it fails to establish that it will suffer any irreparable injury if the Court does not order Defendants to escrow the disputed funds. An injury is irreparable if it is a "noncompensable injury for which there is no legal measurement of damages or for which damages cannot be determined with a sufficient degree of certainty." *Thermatool, supra* at 377. To the extent that Wel-Tek owes Femmepal money or fails to pay as agreed, Femmepal has an adequate remedy at law through its breach of contract claim and its injuries can be remedied through money damages. Femmepal fails to explain how Defendants' threatened bankruptcy or refusal to immediately pay Femmepal constitutes an irreparable injury. Because a showing of irreparable harm is an indispensable

requirement to obtain a preliminary injunction, *Mich Coalition of State Employee Unions v Mich Civil Service Comm'n*, 465 Mich 212, 225-26; 634 NW2d 692 (2001), and Femmepal fails to do so, the Court denies its motion for preliminary injunction.

Dated: **APR 16 2015**

IT IS SO ORDERED.



Hon. Wendy Potts