

**BLOGS**

Preliminary Injunctions

Virginia Federal Court Denies Franchisor's Motion for Preliminary Injunction

A federal court in Virginia denied a franchisor's motion for preliminary injunction against a former franchisee violating the franchise agreement's post-termination noncompete. *JTH Tax, LLC v. Younan*, 2023 WL 6304865 (E.D. Va. Sept. 27, 2023).

A federal court in Virginia denied a franchisor's motion for preliminary injunction against a former franchisee violating the franchise agreement's post-termination noncompete. *JTH Tax, LLC v. Younan*, 2023 WL 6304865 (E.D. Va. Sept. 27, 2023). In 2016, JTH and Bassam Younan entered into two franchise agreements permitting Younan to operate franchised tax preparation offices in North Hollywood, California. JTH terminated both franchise agreements in January 2022, sued Younan, and moved to enjoin him from continuing to operate tax preparation businesses, soliciting former franchise customers, and using JTH's confidential information. Younan admitted that he breached the post-termination obligations by filing customer tax returns, but also claimed that JTH declined to take over his lease or retrieve confidential information and that he ceased using JTH's software and has refused to service customers of the former franchises.

The court found that JTH was likely to prevail on its claim that Younan breached the franchise agreements' post-termination provisions by filing tax returns, but held that there was insufficient evidence to find that JTH would likely prevail on its claim that Younan had failed to return confidential information or that he was using customer records. Next, the court held that JTH had failed to show that it would suffer irreparable harm. The mere allegation that JTH stood to lose customers was not sufficient to show irreparable harm, and the court found that JTH failed to rebut Younan's claims that he took down JTH's marks, ceased using its confidential information and customer records, and informed former customers that he could no longer do business with them. Furthermore, the mere fact that Younan continued to operate a financial services business from the location did not establish irreparable harm because JTH chose not to take over Younan's lease. Finally, the court held that the balance of equities weighed in Younan's favor because the financial impact of Younan's conduct on JTH was relatively small compared to the impact that an injunction would have on Younan. The court concluded its opinion by noting that it was not authorizing Younan to violate the franchise agreements' post-termination obligations and that he would ultimately be responsible for any damages that might be proven.

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