

IN THE SUPREME COURT OF NOVA SCOTIA
Citation: 2703203 Manitoba Inc. v. Parks, 2002 NSSC 265

Date: 20021211
Docket: S. H. 188275
Registry: Halifax

Between:

2703203 Manitoba Inc.

Applicant

v.

David Parks, Ross Parks, Lloyd Smith and
Parrcom Atlantic Concepts Incorporated

Respondents

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Judge: The Honourable Justice Walter R. E. Goodfellow

Heard: December 4th and 10th, 2002 in (Chambers) at Halifax

Written Decision: December 11th, 2002

Subject: INTERIM INJUNCTION

Summary: Coffee News, a franchisor since 1988 produces a formatted newssheet for free distribution in restaurants and other public places. The franchisee pays a license fee and franchise fees and has the responsibility to solicit and sell advertisement in the franchisee's locale to be placed in the Coffee News. Franchisor and Ross Parks/John Schimmel had previous dealings which created bad blood. When Nova Scotia Valley franchise, acquired by Lloyd Smith, no complete disclosure as to Ross Parks' involvement and essentially, Lloyd Smith held the franchise license but was only a commissioned salesman with all other aspects of the business being directed, financed, etc. by Ross Parks. Difficulties arose and in the end, Ross Parks commenced a competitive publication, Flying Cow, and the Coffee News sought injunctive relief on several grounds. In Smith's Valley territory, since his franchise ended, Coffee News obtained a new franchisee at a higher franchise fee. Halifax franchisee has to date shown no reduction in ad, revenue, etc. and overall, application for injunctive relief must be denied, as requirement of establishing irreparable harm not met. Competitive marketplace may well be final determining factor rather than

litigation. Application for injunction denied. However, given conduct of defendants, costs for a day and a half Chambers application set at \$1,750.00, but costs in the cause.

Issue: Requirements of injunction

Result: Dismissed

NO PRECEDENT VALUE

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