

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

SELECT ENERGY SERVICES, LLC,

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Plaintiff,

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vs.

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No. 4:12-cv-00149-SWW

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MICHAEL LABEL,

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Defendant.

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ORDER

Select Energy Services, LLC (Select Energy), a corporation engaged in the water transfer industry in the Fayetteville Shale, brings this action seeking a temporary and permanent injunction against its former employee, Michael Lebel, alleging that Lebel is violating a 2011 Confidentiality, Non-Competition, and Non-Solicitation Agreement (2011 Agreement) he signed with Select Energy by working for one of its competitors in the Fayetteville Shale, Rain for Rent. Select Energy filed this action by way of a Verified Complaint and Application for Temporary and Permanent Injunction in the Circuit Court of Faulkner County, Arkansas, but it was removed to this Court by Lebel on March 6, 2012, pursuant to this Court’s diversity jurisdiction. Included in the papers removed to this Court is Select Energy’s motion for temporary restraining order and preliminary injunction [doc.#3], which the Court earlier informed the parties will be considered solely as a motion for preliminary injunction. Lebel has responded in opposition to Select Energy’s motion for preliminary injunction and Select Energy has filed a reply to Lebel’s response.

The Court originally set a hearing on Select Energy’s motion for preliminary injunction for March 14, 2012, but it was continued at the request of Select Energy and with the consent of

Lebel due to the unavailability of one of Select Energy's witnesses. Since then, the Court has attempted to set Select Energy's motion for preliminary injunction (along with other motions) for a hearing but Select Energy and its witness have experienced difficulty with proposed hearing dates. Given that some nine months have passed since Select Energy states it learned Lebel was allegedly working for a competitor in violation of the 2011 Agreement, it is not clear whether Select Energy continues to maintain a sense of urgency with respect to its request for injunctive relief that it might once have had.¹ The Court directs Select Energy to inform the Court on or before May 4, 2012, whether it desires that a hearing be set on its motion for preliminary injunction or whether this action may simply proceed to a trial on the merits and its motion for preliminary injunction denied as moot. If Select Energy does desire a hearing on its motion for preliminary injunction, the Court directs that it consult with the Court's courtroom deputy—Cecilia Norwood—about proposed hearing dates.

IT IS SO ORDERED this 25th day of April 2012.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE

¹ On May 12, 2011, a little over two months after Lebel became an employee of Select Energy and signed the 2011 Agreement, Select Energy terminated Lebel's employment. On June 6, 2011, Lebel was hired by Rain for Rent. Like Select Energy, Rain for Rent is engaged in the water transfer industry and provides water-related products and services associated with natural gas extraction and production in the Fayetteville Shale. Select Energy states that Rain for Rent is one of its direct competitors in the Fayetteville Shale. Select Energy states that in July 2011, it learned that Lebel was working for Rain for Rent. Select Energy states that Lebel's working for Rain for Rent is in violation of the 2011 Agreement and that Lebel has refused to cease providing competitive services for Rain for Rent. On February 8, 2012, some seven months after Select Energy states it learned Lebel was working for Rain for Rent, Select Energy filed its Verified Complaint and Application for Temporary and Permanent Injunction in state court after which it was removed to this Court.