

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

PIOTR NOWAK,	:	
	:	CIVIL ACTION
<i>Plaintiff</i>	:	
	:	No.
vs.	:	
	:	
PENNSYLVANIA PROFESSIONAL	:	
SOCER, LLC, and KEYSTONE SPORTS	:	
AND ENTERTAINMENT, LLC,	:	
	:	
<i>Defendants.</i>	:	

**COMPLAINT SEEKING EXPEDITED
DECLARATORY JUDGMENT**

This action seeking expedited declaratory judgment is brought pursuant to Federal Rule of Civil Procedure 57 and the Declaratory Judgment Act, 28 U.S.C.A. § 2201, by Plaintiff, Piotr Nowak, against Pennsylvania Professional Soccer, LLC, and Keystone Sports and Entertainment, LLC (collectively, the “Parties”) seeking a speedy hearing and an expedited ruling from this Court that Defendants have failed to satisfy the conditions precedent to any determination of a material breach by Mr. Nowak of Paragraph III (A) of an existing employment agreement between the Parties and in support thereof states:

PARTIES

1. Plaintiff, Piotr Nowak, (“Plaintiff” or “Mr. Nowak”) is domiciled in the State of Florida, with a residence at 112 1st Avenue North, Naples, Florida, 34102.
2. Defendant Keystone Sports and Entertainment, LLC, (“Keystone”) is a Delaware limited liability corporation registered at 160 Greentree Drive, Suite 101, Dover, Delaware, 19904, who owns the Philadelphia Union (“Team” or “Union”), a Major League Soccer team, in Chester, Pennsylvania.

3. Defendant Pennsylvania Professional Soccer, LLC (“Club”) is a Delaware limited liability company that serves as the operating subsidiary of Keystone and operates the Union, with a principal place of business at 2501 Seaport Drive, Switch House, Suite 500, Chester, Pennsylvania, 19013.

JURISDICTION

4. Jurisdiction of this Court is predicated on 28 U.S.C.A. § 1332 in that there is complete diversity of citizenship between the Plaintiff and the Defendants and the amount in controversy is in excess of \$150,000, exclusive of interests and costs.

VENUE

5. Venue lies within the Eastern District of Pennsylvania in that Keystone owns and the Club operates a facility in this district, located at 2501 Seaport Drive, Switch House, Suite 500, Chester, Pennsylvania, 19013 and all of the relevant activities between the Parties have occurred in this District.

BACKGROUND

6. On June 13, 2012, Defendants announced the firing of the Union’s coach and Team Manager, Piotr Nowak.

7. At the time of his firing, Mr. Nowak was under contract with the Defendants to perform services as the Union’s coach and Team Manager through December 31, 2015.

8. Despite its obligation to do so under the contract, Defendants have ceased paying Plaintiff, and demanded immediate repayment of a loan made by the Club to Mr. Nowak, causing Mr. Nowak immediate and material harm.

9. The Defendants have notified Plaintiff that they will not honor his contract and that unless he agrees to a substantially reduced severance package, Defendants will claim that he is being terminated for cause.

10. The Defendants' actions have, and will cause, immediate and irreparable harm to Mr. Nowak.

11. Mr. Nowak seeks pursuant to Paragraph XIII of the contract, a declaratory judgment that Defendants have failed to satisfy the conditions precedent to any claim of termination "for cause".

FACTS

12. Piotr Nowak is an internationally renowned professional soccer player and coach, who served as the coach of the United States Olympic team in 2008.

13. On or about June 1, 2009, the Club and Mr. Nowak entered into the Manager Employment Agreement ("Original Agreement"), a contract which employed Mr. Nowak as the Team Manager through December 31, 2012. A copy of this agreement is attached as Exhibit A.

14. The Original Agreement provides for different terms related to termination depending on whether termination was "for cause" (Paragraph III (A) or (B)).

15. The Original Agreement provides, "[w]hether Club has terminated this Agreement pursuant to Paragraph III (A) or (B) shall be determined in good faith." *See* Ex. A at Paragraph III (C).

16. The Original Agreement also states that "prior to terminating Manager pursuant to Paragraph III (A), Club shall specify in reasonable detail the reason Manager is being so terminated and give Manager an opportunity to respond thereto." *See* Ex. A at Paragraph III (C).

17. The Original Agreement also provides that in certain circumstances related to a for cause termination, the “Club shall allow Manager fifteen (15) days to cure the occurrence.” *See Ex. A at Paragraph III (C).*

18. On or about December 20, 2011, with Mr. Nowak having commendably performed his duties under the Original Agreement, the Club named Mr. Nowak as the Union’s “Manager and Executive Vice President of Soccer Operations” and extended Mr. Nowak’s contract through December 31, 2015 via a letter extension and amendment (“Extension Agreement”). A copy of the Extension Agreement is attached as Exhibit B.

19. On or about June 13, 2012, Mr. Nowak was notified verbally that he was being terminated.

20. Also on June 13, 2012, defendants provided Mr. Nowak with written “options” as follows: (1) sign a Separation Agreement and General Release which would deem him terminated as of June 13, 2012, but continue his salary through December 31, 2012 (while depriving him of his entitlement to salary and benefits through December 31, 2015) or (2) if he refused to sign, a letter would be issued indicating that he was being terminated “for cause pursuant to Paragraph III (A)” of the Original Agreement, in which case, Mr. Nowak would receive no severance. A copy of the Separation Agreement and General Release is attached hereto as Exhibit C. A copy of the proposed “For Cause” letter is attached hereto as Exhibit D.

21. All of the allegations in the proposed termination letter are curable. *See Ex. D.*

22. Defendants notified Plaintiff that if he does not sign the Separation Agreement and General Release by today, Friday, July 20, 2012, the letter terminating him for cause will be issued.

23. Plaintiff notified defendants that he will not sign the Separation Agreement and General Release, creating a material dispute between the Parties.

24. Mid-day today, July 20, 2012, counsel for defendants notified the undersigned counsel that it is issuing Mr. Nowak the “for cause” letter. A copy of the communication is attached as Exhibit E.

25. Defendants have no good faith basis for their assertion of a “for cause” termination.

26. In addition, even if Defendants have grounds for a claim of contractual breach under Paragraph III (A), Defendants have failed to satisfy the condition precedent to termination of the contract and/or breached the contract by: (1) failing to provide Mr. Nowak with notice of the termination before it actually occurred and/or (2) failing to provide Mr. Nowak with an opportunity to cure the concerns as stated in the “for cause” letter.

27. The Parties have agreed, pursuant to Paragraph XIII of the Original Agreement that Pennsylvania law shall apply to any dispute arising out of the agreement.

CONCLUSION

WHEREFORE, plaintiff respectfully requests a speedy hearing and moves this Court to enter an order as follows:

- (1) Declaring that Defendants failed to act in good faith in determining that Mr. Nowak should be terminated “for cause;”
- (2) Declaring that Defendants have failed to satisfy a condition precedent to termination of the contract and/or breached the contract by failing to provide Mr. Nowak notice prior to termination for cause;
- (3) Declaring that Defendants have failed to satisfy a condition precedent to termination of the contract and/or breached the contract by failing to provide Mr. Nowak with an opportunity to cure any occurrences prior to termination for cause;
- (4) Declaring that as a result of the above, Defendant lacked the contractual right to terminate Mr. Nowak pursuant to Paragraph III(A);

- (5) Enjoining Defendant from taking any further action to harm Mr. Nowak that breaches the Original Agreement and the Extension Agreement; and
- (6) Declaring that all other terms and conditions of the contract remain in force.

Respectfully submitted,

By:

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Dated: July 20, 2012