

**IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS  
CIVIL DIVISION**

**TYSON FOODS, INC., a Delaware corporation**

**PLAINTIFF**

v.

**CASE NO. 72CV-21-2739-1**

**REX HOLSTEIN, an individual; and MOUNTAIRE  
CORPORATION, an Arkansas corporation**

**DEFENDANTS**

**EX PARTE EMERGENCY TEMPORARY  
RESTRAINING ORDER**

On this 10<sup>th</sup> day of December, 2021, came before the Court, Plaintiff Tyson Foods, Inc.'s ("Tyson") Emergency Motion for Temporary Restraining Order and Preliminary Injunction (the "Motion"). Based on the Court's review of Tyson's Motion, Tyson's Memorandum of Law in support of its Motion, and Tyson's Verified Complaint for Injunctive and Other Relief, IT IS HEREBY ORDERED THAT:

1. The purpose of this Ex Parte Emergency Temporary Restraining Order is to prevent further irreparable injury against Tyson by Defendants.
2. The Court finds that Tyson has established a likelihood of success on the merits.
3. The Court finds that without this Ex Parte Emergency Temporary Restraining Order, Tyson is likely to suffer irreparable harm.
4. As alleged in the Verified Complaint, Defendant Rex Holstein ("Holstein") was employed by Tyson most recently in the position of VP of Commodity Purchasing. In that role, he had access to Tyson's confidential information, including the most sensitive of information relating to Tyson's commodity purchasing and trading business. On November 9, 2018, Holstein signed a Non-Competition and Non-Solicitation Agreement.
5. As further alleged in the Verified Complaint, Holstein voluntarily resigned his employment with Tyson on November 29, 2021, to accept employment with Defendant Mountaire Corporation

("Mountaire"). As further alleged in the Verified Complaint, Holstein's employment with Mountaire in his current role constitutes a violation of the Non-Competition and Non-Solicitation Agreement. Additionally, as alleged in the Verified Complaint, the Defendants' actions constitute an actual and/or threatened misappropriation of Tyson's Confidential Information under Arkansas law, thereby subjecting Tyson to irreparable harm.

6. Arkansas Code Annotated § 4-75-101(e)(2) provides that a breach of a covenant not to compete agreement shall be considered immediate and irreparable harm.

7. Tyson has provided a Certification pursuant to Ark. R. Civ. P. 65(b)(1) and Verified Complaint demonstrating that notice should not be required as immediate harm associated with the breach of a covenant not to compete agreement shall be considered irreparable in accordance with Ark. Code. Ann. § 4-75-101(e)(2), that the Defendants are committing and continuing to commit the acts that the Plaintiff seeks to enjoin, and that prior notice is not required as it would allow the Defendants additional time to continue the actions thereby subjecting Tyson to further irreparable harm. Accordingly, this Order is issued without notice.

8. Holstein is prohibited and enjoined from directly or indirectly working for Mountaire in his current role, or a similar role which entails responsibilities similar to those Holstein performed in his former role with Tyson.

9. Defendants and all other persons or entities who act in concert with them are prohibited and enjoined from obtaining, seeking to obtain, using, disclosing or misappropriating, or attempting to obtain, seek, use, disclose or misappropriate Tyson's confidential information and trade secrets.

10. Defendants and all other persons or entities who act in concert with them must immediately return to Tyson all originals and copies of Tyson's confidential information and trade secrets.

11. At this stage of the action, the Court, pursuant to Rule 65(c), considers it proper to

require no security.

12. The failure of Defendants to comply with this Order upon service of same may result in a finding of contempt of Court.

13. Pursuant to Rule 65(b)(3), Tyson's request for a preliminary injunction will be heard at a hearing on the 13<sup>th</sup> day of December, 2021, at 1:30 p.m. in Room 402 of the Washington County courthouse unless the parties agree to continue the hearing until after the completion of expedited discovery (which is addressed in a separate Order).


14. This order is entered into as of the date and hour as affixed on the file mark above.

15. The order expires at the time after entry--not to exceed 14 days--that the court sets, unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension must be entered in the record.

16. This order shall be promptly filed in the clerk's office and entered in the record.

IT IS SO ORDERED.

Dated: December 10, 2021

  
Circuit Court Judge