

At IAS Part 8, Commercial Division of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse located at 360 Adams Street, Brooklyn New York, on October 26, 2020.

PRESENT: Hon. Leon Ruchelsman  
J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
KINGS COUNTY: COMMERCIAL DIVISION

KRISTEN L. EIKENBERRY,  
  
Plaintiff,  
  
- against -  
  
RICHARD JOSEPH LAMSON,  
  
Defendant.

Index No. 516653/2020

Mot. Seq. 001

(Oral Argument Requested)

**ORDER TO SHOW CAUSE FOR  
TEMPORARY RESTRAINING  
ORDER, PRELIMINARY  
INJUNCTION, ACCESS TO  
PARTNERSHIP DISTRIBUTIONS,  
AND RELATED RELIEF**

UPON reading the Summons and Verified Complaint dated September 4, 2020, the Affidavit of Kristen L. Eikenberry (“Eikenberry”) sworn to on October 19, 2020, and exhibits annexed thereto, the Emergency Affirmation of James W. Perkins dated October 20, 2020, and the Memorandum of Points and Authorities in support dated October 20, 2020, and all of the pleadings, papers and proceedings heretofore had herein,

LET defendant Richard Joseph Lamson (“Lamson”) show cause, on November 12, 2020 at 2:15 p.m. before IAS Part 8, Commercial Division, located in Room 276, in the Courthouse located at 360 Adams Street, Brooklyn, New York, or via video or telephonic conference why an

Order should not be made and entered: (a) pursuant to Civil Law and Practice Rules Article 63 (i) restraining and enjoining Lamson and his agents from selling, assigning, transferring, or in any way encumbering all personal property, real property or other assets in which Lamson and/or Eikenberry and any of 330 Atlantic Ave Development LLC, Easy Wind L.L.C., Fairmont Industries Supply, LLC, Fairmont Industries Inc. (also known as Fairmont Industries, Corp.), HTHP Leasing Inc., Two Route 17 South LLC has an ownership interest, including but not limited to real property, funds held in bank or investment accounts, cash, securities, and other tangible or intangible property, without Eikenberry's knowledge and written consent, (ii) restraining and enjoining Lamson from cancelling any benefits Eikenberry currently enjoys, including health insurance and access to and use of an automobile, and (iii) directing Lamson to restore electronic data to Eikenberry that he previously caused to be deleted and allowing an inspection to ensure he has complied; (b) pursuant to New York Partnership Law § 75 providing Eikenberry distributions from a Morgan Stanley bank account held in her name (Account # XXX-XXX793) and/or in the name of 330 Atlantic Ave Development LLC (Account # XXX-XXX304) for ongoing expenses in an amount no less than specified in Eikenberry Affidavit Exhibit N until a final judgment is entered in this matter; and (c) granting Eikenberry such other and further relief against Lamson as the Court deems just and proper.

AND sufficient cause having been shown, it is hereby:

ORDERED that pending a hearing and decision on this application:

1. Upon delivery of a copy of this order to Morgan Stanley, Eikenberry shall be paid \$100,000.00 from the Morgan Stanley bank account held in her name (Account # XXX-XXX793) as an advance against any amount potentially owing to her in a final determination of this matter;

2. Upon delivery of a copy of this order to Morgan Stanley, and for the purpose of paying tuition, Lamson and Eikenberry will jointly direct Morgan Stanley to pay no later than October 30, 2020 by wire transfers a total of \$ 86,520.43 from the Morgan Stanley bank account held in her Eikenberry's (Account # XXX-XXX793) to the following institutions in the following amounts: (a) \$ 17,522.80 to Syracuse University, (b) \$ 26,870.00 to Smith College, (c) \$ 42,127.63 to Saint Ann's School, and (d) \$17,522.80 to David Eikenberry as reimbursement for Syracuse tuition;
3. Upon delivery of a copy of this order to Morgan Stanley, Lamson may draw funds from the account in the name of 330 Atlantic Ave Development LLC (Account # XXX-XXX304) for the sole purpose of paying ordinary business expenses for the development project located at 330 Atlantic Avenue, Brooklyn, N.Y. and Lamson shall record and report those expenses to Eikenberry, including by providing invoices or other proof of indebtedness indicating vendor, amount due and owing to such vendor, and amount paid to such vendor, and any other expenses shall be an advance against any amount potentially owing to him in a final determination of this matter; and it is further

ORDERED that pending a hearing and decision on this application, Lamson is restrained from cancelling Eikenberry's health insurance and access to and use of the automobile and related auto insurance currently in her possession;

ORDERED that pending a hearing and decision on this application, Lamson is directed immediately to use best efforts to restore and provide Eikenberry access to all of the electronic Gmail account and iPhone data that Eikenberry had, but no longer has, access to, without himself or his agents viewing any such information, once such data is provided to Eikenberry delete any

original data or copies made of such information, and to certify that any such original data or copies have been destroyed; and it is further

ORDERED that service of a copy of this order and the papers upon which it is granted upon Lamson or his counsel by filing on NYSCEF on or before October 30, 2020, shall be deemed good and sufficient; and it is further

ORDERED that answering papers, if any, are to be served so as to be received by Eikenberry's attorneys by filing on NYSCEF on or before November 3, 2020; and it is further

ORDERED that reply papers, if any, are to be served so as to be received by Lamson or his appearing counsel by filing on NYSCEF on or before November 10, 2020.

**ENTER:**

  
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**Hon. Leon Ruchelsman**  
**J.S.C.**

**LEON RUCHEL**