

## **BUSINESS AND FRANCHISE LAW REPORT**

### **FOR ADDITIONAL INFORMATION CONTACT:**

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### **RE: New York Order Show Cause - Non-Controlling Shareholder Oppression**

To provide you with a better understanding of what an Order to Show Cause looks like and how injunctive relief comes into play, I have included a redacted version of actual Orders to Show Cause that I have filed in the course of litigation. Please keep in mind that an Order to Show Cause is not a generic document and that the content of your Order to Show Cause (if one is required) must be prepared by your attorney and must be specific to the facts of your case and the relief appropriate for your case.

In the exhibited example, I have redacted all client and business information. I have further revised the exhibited examples to remove specific injunctive relief that could be used to identify the business of my client or my client's identification. So, please understand that the sample documents are not provided to you in their complete form. Do not use or copy these documents and always refer to your attorney for the preparation of legal documents. Not every application for injunctive relief is successful, but, if properly structured and planned, even an unsuccessful Order to Show Cause may present numerous benefits to your case.

**After you review the example, consider the following questions for your attorney:**

1. Whether or not injunctive relief is an option for your case?
2. What types of injunctive relief would benefit your business?
3. What types of injunctive relief would benefit your personal interests?
4. What is the likelihood of successfully obtaining an injunction?
5. What is the best course of action for obtaining an injunction?
6. Can you benefit from the Order to Show Cause even if a court denies your application for injunctive relief?

**Example:**

**New York Order to Show Cause: Non-Controlling Shareholder Oppression.** This redacted Order to Show Cause was filed in New York State Court. The nature and basis for relief related to acts of minority shareholder oppression where a non-controlling shareholder with a thirty-five (35%) percent equity interest was slowly locked out of his or her duties and role at the company. The injunctive relief sought in this Order to Show Cause was focused on preserving the rights of the non-controlling shareholder, including his or her role as an employee, officer and director of the company.

At an IAS Part \_\_\_\_\_ of the Supreme Court of the State of New York, County of \_\_\_\_\_, at the Courthouse thereof, located at \_\_\_\_\_, New York on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**PRESENT: Hon. [Judges Name], J.S.C.**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

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[Plaintiff Name]

Plaintiff

Index No.:

-against-

[Defendant Name],

Defendants

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**UPON** reading and filing the annexed Summons, Verified Complaint, and the affidavit of \_\_\_\_\_ sworn to on the \_\_ day of \_\_\_\_\_, 20\_\_, and sufficient cause appearing therefrom,

**NOW**, on motion of the The Internicola Law Firm, PC, attorneys for Plaintiffs,

**LET**, that the Defendants show cause before the Honorable [Judges Name] presiding at \_\_\_\_ Part \_\_\_\_, Room \_\_\_\_ to be held in courthouse located at \_\_\_\_\_, in the County of \_\_\_\_\_ and State of New York on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at 9:30 a.m. or as soon thereafter as counsel can be heard why an order should not be made and entered herein pursuant to CPLR Section 6301 *et seq.*, enjoining and

restraining the Defendants, and their respective agents, employees and other persons acting on behalf of or in concert with them, during the pendency of this action, from directly or indirectly:

- (i) Denying, preventing and/or interfering with the access of any and all shareholders, directors and officers of [XYZ Corp], including that of Plaintiff;
- (ii) Terminating the employment and/or interfering with the duties of any shareholder and officer of [XYZ Corp], including, but not limited to Plaintiff;
- (iii) Diverting, transferring selling and or encumbering any and all assets of [XYZ Corp.] that occurs outside the ordinary day-to-day operations and business of [XYZ Corp];
- (iv) Modifying and/or terminating the compensation that has been commonly paid to each shareholder / officer of [XYZ Corp], including Plaintiff;
- (v) Diverting client contracts and projects typically and commonly serviced by [XYZ Corp] – including new clients – to a competing company or entity; and
- (vi) Such other and further relief as the court deems just and proper.

**ORDERED**, that pending the hearing of this application the Defendants and their respective agents, employees and other persons acting on behalf of or in concert with them, be and the same are hereby enjoined and restrained from directly or indirectly.

- (i) Denying, preventing and/or interfering with the access of any and all shareholders, directors and officers of [XYZ Corp], including that of Plaintiff;
- (ii) Terminating the employment and/or interfering with the duties of any shareholder and officer of [XYZ Corp], including, but not limited to Plaintiff;
- (iii) Diverting, transferring selling and or encumbering any and all assets of [XYZ Corp.] that occurs outside the ordinary day-to-day operations and business of [XYZ Corp];
- (iv) Modifying and/or terminating the compensation that has been commonly paid to each shareholder / officer of [XYZ Corp], including Plaintiff;
- (v) Diverting client contracts and projects typically and commonly serviced by [XYZ Corp] – including new clients – to a competing company or entity; and
- (vi) Such other and further relief as the court deems just and proper.

**LET** service of a copy of this Order and the papers upon which it is granted, together with the Summons and Complaint in this action, in any of the following manners, on or before \_\_\_\_\_, 20\_\_, shall be deemed good and sufficient service: (i) by personal service upon the Respondent in any manner provided under CPLR Section 308, subsections (1) through (4) and (6)

## E N T E R

[Judges Name]

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, J.S.C.

### **LEARN MORE**

To learn more about a proven course of action and plan to protect and defend your interests as a New York or New Jersey partner, shareholder or member, contact [Partnership and Shareholder Lawyer, Charles N. Internicola, Esq.](#) at  
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***["The New York and New Jersey Partnership Dispute Guide"](#)***

### **ADDITIONAL ARTICLES**

By New York and New Jersey Partnership and Shareholder Lawyer  
Charles N. Internicola, Esq.

- [Fiduciary Duties and Obligations Between Partners and Shareholders](#)
- [The Tactical Role of Dissolution when Faced with a Shareholder Dispute](#)
- [Dissolution when Faced with Shareholder and Director Deadlock](#)
- [Grounds for Dissolution by a Fifty Percent Shareholder](#)
- [Grounds for Dissolution by a Minority Shareholder](#)
- [Dissolution of your New York Corporation: Procedural Requirements that must be Followed](#)
- [Minority Shareholder Rights: Dissolution Remedy when Faced with Oppression](#)