

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

THE STATE OF ILLINOIS,

Plaintiff,

v.

ALTERNATIVE STAFFING, INC.,  
*et al.*,

Defendants.

No. 2022-CH-05069

Calendar 16

Judge David B. Atkins

**ORDER**

THIS CASE COMING TO BE HEARD for on Defendants' Motion to Dismiss, the court having reviewed the briefs submitted and being fully advised in the premises,

THE COURT HEREBY FINDS AND ORDERS:

1. This is an action under the Illinois Antitrust Act in which the Plaintiff, the State of Illinois, alleges violations of the Act via certain "no poach" agreements between the Defendants regarding temporary workers. This matter was previously stayed pending resolution of appellate proceedings in a case involving similar facts, *State of Illinois v. Elite Staffing, Inc. et al.*,<sup>1</sup> those proceedings were so resolved, and Defendants now move to dismiss, arguing Plaintiff has failed to allege sufficient facts in support of the alleged violation.
2. The court cannot agree. Plaintiff alleges extensive facts in support of the alleged conspiracy, including several emails between the Defendants evidencing an agreement (outside their formal contracts) not to hire each other's temporary employees (or to otherwise allow them to switch agencies),<sup>2</sup> which if true could at least potentially show a violation of the Act. It is axiomatic that a complaint should be viewed in the light most favorable to the plaintiff and should only be dismissed where no set of facts could entitle it to relief, and Plaintiff has easily surpassed that standard here.
3. For similar reasons, the court need not rule at this time on whether the conspiracy (to the extent proven) is *per se* unlawful or whether the court

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<sup>1</sup> No. 2020 CH 05156. Ultimately those proceedings were resolved on limited certified questions which have only partial relevance here.

<sup>2</sup> Defendants assertion that some employee switching nevertheless occurred during the relevant periods does not (even if true) defeat the claim. An unlawful conspiracy may exist even where there are breaches thereof by some parties or it is otherwise not 100% successful in stopping the competition it aims to stop.

should apply the rule of reason thereto. Defendants themselves argue such a determination “is highly fact specific,”<sup>3</sup> and Plaintiffs have at least alleged enough at the pleading stage to suggest the “no-poach” scheme alleged could have been unlawful.<sup>4</sup>

4. For these reasons, Defendants’ Motion to Dismiss is hereby DENIED. Defendants shall answer the Complaint on or before May 7, 2025, at this matter is continued for further status to June 3, 2025 at 10:30 AM.

JUDGE DAVID B. ATKINS  
ENTERED:

APR 15 2025  
Circuit Court-1879  
Judge David B. Atkins

The Court.

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<sup>3</sup> *United States v. Patel*, 2023 U.S. Dist. LEXIS 74104, at 18.

<sup>4</sup> To the extent the Supreme Court’s Mandate in *Elite Staffing* is applicable here it supports this; the Court found agreements concerning services are not excluded from the Act as a general matter and stated that agreements concerning “whether they will hire each other’s employees may violate the Act.” 2024 IL 128763 ¶70