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## BLOGS

Post-Termination Injunctions: Noncompetes

# Court Denies Preliminary Enforcement of Noncompete Covenant Based on Failure to Show Irreparable Injury

In *Dickey's Barbecue Restaurants, Inc. v. GEM Investment Group, LLC*, 2012 U.S. Dist. LEXIS 54448 (N.D. Tex. Apr. 18, 2012), a federal court in Texas denied a franchisor's motion for a preliminary injunction to enforce noncompetition covenants. The defendants had signed an agreement with Dickey's Barbecue to develop three franchised restaurants in the state of Washington. During the construction of their first restaurant, the defendants dropped out of training and established an independent restaurant at their formerly franchised location.

Despite a contractual provision in which the defendants had consented to the entry of preliminary injunctive relief, the court denied the franchisor's motion, finding that it had failed to establish a substantial threat of irreparable harm. The court found that the franchisor could not show harm to its established customer base or goodwill in Washington because it had only recently begun operating in the state. Moreover, the defendants never actually operated a Dickey's Barbecue Pit at the location of their new restaurant. Finally, notwithstanding the franchisor's argument that the defendants were in a position to misappropriate many of its trade secrets, including recipes and other proprietary information that they had acquired during their training, the court found that irreparable harm was not likely to occur because the defendants had returned their operations manual and were using their own recipes and techniques.