

**BLOGS**

Post-Termination Injunctions: Noncompetes

Court Grants Preliminary Injunction Enforcing Covenant Not to Compete Against Former Franchisee

The United States District Court for the Northern District of New York has preliminarily enjoined a former franchisee from operating a competing business in violation of her covenant not to compete with the franchisor. *H&R Block Tax Servs., LLC v. Strauss*, Case No. 1:15-cv-0085 (N.D.N.Y. Feb. 4, 2015). Gray Plant Mooty represents H&R Block in this case. The franchisee, Strauss, had agreed that upon termination of her franchise agreement she would neither solicit clients to whom her franchise had provided tax return preparation services nor compete with H&R Block in the business of preparing tax returns for a period of one year within 45 miles of her formerly franchised territory. When her franchise expired, Strauss declined Block's offer to enter into its current form of franchise agreement and continued to operate an independent tax return preparation business at the same location as her former franchise. She also continued to schedule appointments with clients seeking tax return preparation services using the local telephone number that was listed under the name H&R BLOCK in the area.

In granting Block's motion for a temporary restraining order and preliminary injunction, the court held that Block was likely to succeed on the merits of its claim that the franchisee had breached the noncompete provision in her franchise agreement and that the provision was reasonable and enforceable under Missouri law, which governed the contract. The court also found that Block would suffer irreparable harm to its goodwill and its ability to establish a new tax return preparation office in the area if Strauss was not enjoined from diverting past clients to her new business. Turning to the balance of equities, the court observed that Strauss had reaped the benefits of her association with Block over the 30-year period that she had operated her franchise and that she had freely agreed to the terms of the franchise agreement. Accordingly, the court ordered that Strauss cease operating a tax business within 45 miles of her formerly franchised territory and immediately transfer to Block the telephone number that had been used by the formerly franchised business. The court held that the injunction against competition also applied to employees of Strauss's formerly franchised business who were acting in concert with her to operate the independent tax return business at that same location.

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