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BLOGS

Post-Termination Injunctions: Noncompetes

Court Holds Noncompete Agreement Enforceable Only Where Franchise Agreement Is Terminated, Not When It Expires

In *Hamden v. Total Car Franchising Corp.*, 2012 U.S. Dist. LEXIS 111432 (W.D. Va. Aug. 7, 2012), a Virginia federal district court held that where a franchise agreement expired at the end of its term, the post-termination non-compete clause was unenforceable because the clause only applied in situations where the agreement was terminated prior to expiration. The parties' franchise agreement expired in May 2011, but the franchisee continued operating as a franchisee because he did not realize the term had ended. After receiving a reminder from the franchisor of his right to renew the agreement, the franchisee notified the franchisor that he would not renew his franchise and ceased operations. The franchisee then filed a lawsuit seeking a declaration that the noncompete agreement was unenforceable because it only applied when the franchise agreement was terminated, and not when it simply expired. In response, the franchisor argued that expiration is a form of termination and that the post-termination restrictive covenant was therefore enforceable. The court disagreed, finding that the language of the non-compete agreement confirmed that "termination" is distinct from and does not encompass "expiration."