



Superior Court Rejects Exception To Consideration For Noncompetes

News

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Michael Greco was quoted in *The Legal Intelligencer* article entitled "Superior Court Rejects Exception To Consideration For Noncompetes."

The Pennsylvania Superior Court ruled in a case of first impression that the Uniform Written Obligations Act does not relieve employers of the requirement to give employees valuable consideration in exchange for signing noncompete agreements.

In *Socko v. Mid-Atlantic Systems of CPA*, a three-judge Superior Court panel unanimously affirmed a York County trial judge's ruling that defendant Mid-Atlantic Systems of CPA's noncompete covenant with plaintiff David M. Socko was unenforceable because the employer failed to offer Socko, who was already working for the company, any benefit or change in job status, according to the article.

While Mid-Atlantic had argued that it was not obligated under the UWOPA to give *Socko* valuable consideration because the noncompete agreement stated that the parties "'intend to be legally bound'" by its terms, the court disagreed.

Michael, who was not involved in *Socko*, said he has successfully argued before the U.S. District Court for the Eastern District of Pennsylvania that the UWOPA does replace the need for actual consideration.

While the federal court's agreement with him on that issue was dicta in that case because it ultimately found that valuable consideration did exist, Michael said he believed that court correctly interpreted the UWOPA, while the Superior Court in *Socko* ignored the plain language of the statute.

Michael said he thought the *Socko* court had engaged in "judicial activism."

"To me, these are judges that are legislating from the bench," Michael said. "This is a state statute; it says what it says."

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