

Congress Targets Non-Compete Agreements

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Mike Greco was quoted in *Law Week Colorado* on June 29, 2015. The article “Congress Targets Non-Compete Agreements” discussed how although the U.S. Congress considers a one-size-fits-all restriction on non-compete clauses, some employers may be second-guessing the enforceability of their own restrictive covenants.

Most laws governing restrictive covenants aim to allow a company to protect its competitive interest without unduly handicapping its employees’ ability to find work elsewhere upon separation. But the MOVE Act might be oversimplifying this issue by just designating a wage standard, according to Mike.

When determining whether someone should be contractually precluded from engaging in unfair competition, “there’s nothing magical about the amount of compensation” the employer is paying him or her, Mike said. He added there are cases in which someone earning less than a \$31,200 salary, the bill’s chosen ceiling, could nonetheless possess trade secrets or have exploitable customer relationships.

Pet groomers may not be high-wage earners, but they might be the face of the employer’s company and can therefore legitimately take customer relationships with them if they leave, Mike said.

“If you’ve got a salesperson who may not have had access to trade secret information but routinely developed relationships with your clients, you will be in a difficult spot in Colorado – unless they’re a manager or an executive – to require them to abide by a restrictive covenant,” Mike said. “I really think it’s something that Colorado ought to take a look at again.”

“You can literally have the same non-compete agreement be enforceable one day against one employee and unenforceable the next day against another one,” Mike said.

To read the full article, please visit *Law Week Colorado*.

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