Don't Go Overboard with Overbroad Non-Competes: Illinois Federal Court Strikes Down Non-Compete Clause

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Daniel Dumrauf was a Director with Medix Staffing Solutions, Inc., a Chicago-based staffing agency. Dumrauf worked at Medix's Scottsdale, Arizona office. Dumrauf's employment agreement contained a non-compete clause that restricted him from being connected in any manner "with the ownership, management, operation or control" of any business in competition with Medix, either directly or indirectly. The non-compete was to be effective for eighteen months and covered a 50-mile radius.

On August 10, 2017, Dumrauf resigned from his position with Medix and informed the company he would be taking a position with ProLink, a direct competitor of Medix. In his resignation correspondence, Dumrauf noted 90% of his activity with ProLink would be conducted in Ohio and Kentucky. ProLink also has an office in Phoenix, Arizona, which is less than 50 miles from Medix's Scottsdale office. Medix subsequently filed a breach of contract complaint against Dumrauf in the U.S. District Court for the Northern District of Illinois for breach of the non-compete clause.

The district court found that under Illinois law, the covenant was improperly overbroad because it barred Dumrauf from taking positions with competitors that extended far beyond roles similar to his at Medix. The court stated the covenant prevented Dumrauf from taking any number of plausible roles with another industry player, no matter how far removed from competition with Medix.

Medix argued the restriction was appropriately limited by the specific language of, "in any manner with the ownership, management, operation or control." The court rejected this contention positing the unambiguous meaning of the covenant in its entirety indicated Dumrauf may not work for any company in the same business as Medix in any capacity whatsoever. Further, even if the covenant related only to positions in ownership, management, operation or control, it would still be overbroad as there are numerous positions that could fit under this description that are non-competitive.

Importantly, the court noted this was such an "extreme case" where dismissal pursuant to a motion to dismiss was appropriate because "[t]here [was] no factual scenario under which it would be reasonable." The court even rejected Medix's plea to modify the clause, rather than completely invalidating the covenant. The court relied on Illinois law that encourages courts to refuse to modify a non-compete where the provisions are so broad as to be a complete ban on competition.

The *Dumrauf* case highlights the importance of drafting appropriately tailored non-compete clauses. Employers are often inclined to use overbroad non-compete clauses with higher level

employees in an effort to further protect their business interests. Nonetheless, it is important to remember overbroad non-compete clauses are strongly disfavored by many states, including Illinois. Such covenants may result in significant consequences, such as the complete invalidation of the non-compete clause.