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BLOGS

Post-Termination Injunctions: Noncompetes

Federal Court Denies Former Franchisee's Motion to Stay Injunction Pending Appeal

In *Wakeman v. Aqua2 Acquisition, Inc.*, 2011 U.S. Dist. LEXIS 47498 (D. Minn. May 3, 2011), in which Gray Plant Mooty represented the franchisor of the AutoQual system, a Minnesota federal court last month denied the franchisee plaintiff's request to stay the court's judgment and injunction pending appeal. As reported in Issue 140 of *The GPMemorandum*, the court in February had confirmed an arbitrator's award despite a clarification to which Wakeman, a former AutoQual franchisee, objected. Specifically, the court enjoined Wakeman and a defined group of people working in concert with him from offering or selling any interior re-conditioning services. Wakeman filed a notice of appeal to the United States Court of Appeals for the Eighth Circuit and filed a motion with the district court to stay the injunction pending resolution of the appeal.

In denying Wakeman's motion, the district court found that Wakeman failed to show that he was likely to succeed on the merits of the appeal because he was merely reiterating arguments already heard by the court. The court further found that Wakeman failed to show that he would suffer irreparable harm without the stay because he knew that upon termination of his franchise agreement he would be required to cease operation of the AutoQual business. The court also found that AutoQual would suffer irreparable harm from Wakeman's continued operation of the AutoQual business and the public interest would be best served by enforcing a valid restrictive covenant.