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BLOGS

Noncompetes

Federal Court Issues Preliminary Injunction Enforcing Noncompete Under Montana Law

A Montana federal court has granted H&R Block's motion for a preliminary injunction to enforce a covenant not to compete. The case is *H&R Block Tax Services LLC v. Kutzman*, 2010 U.S. Dist. LEXIS 12837 (D. Mont. Jan. 26, 2010). At issue was whether the covenant's geographic 45-mile restriction and one-year prohibition were reasonable under Montana law. The franchisee, who continued to provide tax preparation services after the expiration of the franchise agreement, claimed that the covenant violated a Montana statute. The court disagreed, finding that while noncompete restrictions are not favored under Montana law, they are enforceable.

The court found that the noncompete provision in Kutzman's franchise agreement was reasonably restricted; that H&R Block provided consideration by giving Kutzman training, a trade name, access to its business methods, and territorial exclusivity; and that the restrictions allowed H&R Block a fair opportunity to retain its goodwill in the territory. The case is in line with those in a growing number of jurisdictions that have distinguished franchise noncompete covenants from those in employment agreements.