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To: Sylvia Baca

From: Applicant

Re: Industrial Sandblasting, Inc v. Samuel Morgan

pursuant to your request, I have prepared for the closing argument on whether the covenants are valid as below.

Introduction

Dear ladies and gentlemen of the juries and your honor, after all evidences are presented, I would like to say as a closing argument. In sum, I would like to say the covenants are invalid because the restrictions in the covenant are not reasonable in time, geographic area, and score of prohibited activities, thus shall not be permitted.

Argument

testimony at the hearing for bench trial

contract between Morgan and Industrial on February 15, 2016

As to Columbia Stat. Ann. 24-6-53(a), enforcement of contracts that restrict competition during the term of a restrictive covenant, so long as such restrictions are reasonable in time, geographic area, and score of prohibited activities, shall be permitted.

the court of Strom said that it should uphold such a covenant only when strictly limited in time, territorial effect, and scope of the prohibited activities and it must weigh the interest the employer seeks to protect against the impact the covenant will have on the employee.

Unlike the provision of the contract in Strom that the time limit is appropriate, in our case, restraining Morgan from appearing on the job for one year is not appropriate because it is too long while Strom provision was for six months. It would not permit Morgan to appear on the job after the transition

Also, the geographical scope is not appropriate in our contract, because the provision restricts anywhere in the State of Columbia; Industrial have the jobs mostly north part of the state - northeast part, northwest corner of the state while Columbia Coastings(CC) wanted Morgan to work in the south and southeast. Their areas of the activities are different and not even overlapped. Because the scope of geographical area is not reasonable, it is not appropriate.

Further, the scope of the services covered is not appropriate. Unlike the Strom that the contract prohibits Strom from using an on-air personality in which Knox has a legitimate and protectable interest, here, it does not seem that Industrial has such interests by restraining Morgan to work in the field, because he was not the first and last person for foreman activity and bidding. As to the transcript of hearing, Industrial hired another foreman the week before Morgan left and they already had someone doing the bidding who is the man in the home office who asked Morgan to help with bids and estimates. Because he knew pretty much what Morgan knew, they would be unlikely harmed on their interests in the reasonable circumstances.

Finally, enforcing the covenant does not represent a fair balance of a distinct and substantial harm to Industrial under the reasons discussed above. It does rather have minor and incidental harm compared to those harms to Morgan, which would take from his earning and joy of doing his job.

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Conclusion

Therefore, the covenants are invalid because the restrictions in the covenant are not reasonable in time, geographic area, and scope of prohibited activities, thus shall not be permitted.

Question #1 Final Word Count = 525

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