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NEWS & UPDATES ON DEVELOPMENTS IN THE LAW OF RESTRICTIVE COVENANTS,
UNFAIR COMPETITION & TRADE SECRETS

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Pennsylvania Supreme Court Holds That Mere Continued Employment Is Not Adequate Consideration To Support A Restrictive Covenant

Weighing in on an issue that is drawing attention nationwide, the Pennsylvania Supreme Court recently held, in *Socko v. Mid-Atlantic Systems of CPA, Inc.*, that the mere continuation of employment is not sufficient consideration to support a restrictive covenant. Rather, for there to be sufficient consideration, the Court held that the employee must receive “some corresponding benefit or a favorable change in employment status.” As examples of such sufficient additional consideration, the Court cited “a promotion, a change from part-time to full-time employment, or even a change to a compensation package of bonuses, insurance benefits, and severance benefits.” The Court did not, however, provide any detail as to the size of the additional consideration that must be provided; it merely gave examples of types of additional consideration.

In so ruling, the Pennsylvania Supreme Court came down on the same side of this issue as the Kentucky Supreme Court in 2014. In contrast, the Wisconsin Supreme Court in 2015 held that continued employment of a current at-will employee is sufficient consideration to support a covenant not-to-compete.

We expect this to remain a hot topic and we will continue to monitor developments in this area.

Tags: consideration, continued employment, Non-Compete Agreements, Pennsylvania, Socko

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