Case In Point

Court of Appeal for Ontario Finds Restrictive Covenants Unreasonable and Unenforceable

Date: February 6, 2013

In Martin v. ConCreate USL Limited Partnership, a decision released yesterday, the Court of Appeal for Ontario determined that the restrictive covenants included in sale of business agreements were unenforceable. Among other things, the Court found that the duration for the covenants was unreasonable because it was “for an indeterminate period, and there is no fixed, outside limit.”

For employers, the decision highlights three important points: (1) it is important to have a fixed time limit on restrictive covenants; (2) the court will undertake an independent analysis of the reasonableness of restrictive covenants; and (3) overly broad restrictive covenants will be unenforceable and therefore will be unsuccessful in protecting an employer’s legitimate business interests.

A detailed analysis of this decision, and its implications for employers, is found in our *FTR Now* of February 6, 2013, entitled “Important Direction on Restrictive Covenants from the Court of Appeal for Ontario.”