News

Court of Appeal for Ontario Considers Enforceability of Restrictive Covenants

Date: October 30, 2013

The Court of Appeal for Ontario has affirmed that if restrictive covenants are to be enforceable, they must be properly drafted. In *Eagle Professional Resources Inc. v. MacMullin*, the Court upheld the finding of a motion judge that “non-competition” clauses in the employment contracts of employees who left the plaintiff’s employ and joined a competitor were not enforceable. It was not clear that the employees had taken any proprietary information belonging to the plaintiff, the geographic scope of the clause was too broad and there was nothing in this fact situation that would warrant the prohibition of competition.

The Court and the motion judge also noted that the evidence led by the plaintiff on the summary judgment motion was insufficient to establish its claims: in other words, the plaintiff failed to put its “best foot forward”.

For a discussion of this decision, see our Case in Point blog post “Ontario Court of Appeal Decision Underscores Importance of Properly Drafted Restrictive Covenants.”