

## Federal Judge Dismisses Breach of Contract Claim Based on Noncompliance with Massachusetts Noncompetition Agreement Act

July 21, 2021

On July 15, 2021, US District Judge Timothy S. Hillman of the US District Court for the District of Massachusetts issued one of the first written decisions analyzing the Massachusetts Noncompetition Agreement Act: *KPM Analytics N. Am. Corp. v. Blue Sun Scientific, LLC*, No. 21-cv-10572 (D. Mass. July 15, 2021).

The Act, which took effect on October 1, 2018, limits the scope and enforceability of noncompete agreements and sets forth certain minimum drafting requirements. However, the Act also permits courts to “reform or otherwise revise a noncompetition agreement so as to render it valid and enforceable.” No court had previously issued a written opinion enforcing or reforming a noncompete agreement that fails to comply with the Act, but that changed in *KPM Analytics N. Am. Corp. v. Blue Sun Scientific, LLC*, where the plaintiff brought a breach of contract claim against its former employee for violating his noncompete agreement.

Observing that the noncompete agreement at issue neither expressly stated that the employee had the right to consult with counsel nor included reference to garden leave or other mutually agreed-upon consideration, Judge Hillman declined to enforce the noncompete agreement and dismissed the breach of contract claim.

Given this decision, Massachusetts employers should ensure that their noncompete agreements expressly reference and comply with all minimum requirements set forth by the Act.

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