

Publications

Texas Supreme Court Considers No Geography Limit in Enforceability of Non-Competes

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Texas Lawyer

Iona Kaiser, a partner in the Vorys Houston office, authored an article for *Texas Lawyer* about a recent case argued before the Texas Supreme Court related to non-compete agreements and geographical limitations.

The article states:

“In the current Horizon Health case, the Court is addressing a non-compete that clearly lacks any ‘geographical area’ limitation. Acadia contends that without any geographic restriction, non-compete agreements must fail as a matter of law and cites the statute stating ‘a covenant not to compete is enforceable ... to the extent that it contains limitations as to time, geographical area, and scope of activity to be restrained.’ Horizon responds that each of the employees held nationwide positions and thus a nationwide restriction is proper.

In view of how the Court has historically interpreted Texas non-compete agreements, it seems likely that the Court will continue the trend started in 2006 of interpreting the statute broadly and finding most non-competes enforceable as long as they are ancillary to or part of an otherwise enforceable agreement. However, the fact that the statute itself requires limitation as to geographical area may force the Court's hand and require narrow enforceability for the first time since Light. Perhaps the more likely outcome is that the Court will remand Horizon Health for new trial based on other issues, such as the availability of future lost profits under the facts of the case, or for the trial court to consider how the covenant may be reformed to impose a restraint that is no greater than necessary to protect Horizon's interests.”

To read the entire article, visit the *Texas Lawyer* [website](#). (Subscription may be required).