

Venue Provision in Non-Compete Agreement Governs Even as to Non-Party Interference

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Florida's Fourth District Court of Appeal recently held that a non-compete agreement's mandatory forum selection clause binds non-signatory parties who are alleged to have tortiously interfered with the agreement. *East Coast Karate Studios, Inc. v. Lifestyle Martial Arts, LLC, et al.*, Nos. 4D10-3061 and 4D10-3877 (Fla. 4th DCA July 6, 2011).

In *East Coast Karate Studios, Inc.*, an employee of a martial arts business in Broward County signed a non-compete agreement containing a mandatory forum selection clause establishing Broward County as the exclusive venue for any case arising in connection with the agreement. The employee later left the business and immediately began working for a martial arts business run by the employee's wife. The court reasoned that the mandatory forum selection clause would govern in the tortious interference claim against the employee's wife and against the new employer even though the employee's wife and the new employer were not signatories to the agreement.

The court reached this holding because there is a close relationship between the employee, his wife, and the new employer. In addition, the interests of the employee's wife and the new employer are derivative of the employee's interests because the interests stem from whether the agreement is enforceable. Finally, the claims involving the employee's wife and new employer arise directly out of the agreement. The court declined to hold that the forum selection clause is void on the basis of fraud because the employee, his wife, and the new employer had not demonstrated that the clause itself was the product of fraud and the forum is not so inconvenient as to deprive them of their day in court.

Authored By



Amanda Romfh Jesteadt

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