

Massachusetts Supreme Judicial Court Clarifies That Massachusetts Non-Competition Agreement Act Does Not Apply to Nonsolicitation Agreements Regardless of Whether the Nonsolicitation Agreement Triggers a Forfeiture of Compensation/Benefits

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The Massachusetts Supreme Judicial Court (“SJC”) has confirmed that nonsolicitation agreements are excluded from the Massachusetts Non-Competition Agreement Act (“MNAA”), G.L. c. 149, §24L, regardless of whether a breach of the nonsolicitation covenant triggers a forfeiture of benefits clause.

The SJC’s Ruling

On June 13, 2025, in *Miele v. Foundation Medicine, Inc.*, Case No. 13697, 2025 WL 1667748 (Mass. 2025), the SJC answered the following reported question from the Massachusetts Superior Court: “Does G.L. c. 149, §24L, the Massachusetts Noncompetition Agreement Act, apply to a non-solicitation agreement incorporated into a termination agreement if the termination agreement includes a forfeiture provision in the event that the employee breaches the nonsolicitation agreement?”

The SJC concluded that it does not and held that “a forfeiture clause triggered by a breach of a nonsolicitation agreement does not constitute a ‘forfeiture for competition agreement’ within the meaning of the [MNAA].”

The SJC explained that under the plain language of the MNAA: “(1) noncompetition agreements do not include nonsolicitation agreements, and (2) forfeiture for competition agreements are a subset of noncompetition agreements.” Therefore, the SJC held that it “follows, by necessary implication, that forfeiture for competition agreements also exclude nonsolicitation agreements.” Indeed, the Court explained that a nonsolicitation agreement remains a nonsolicitation agreement that is excluded from the MNAA “regardless of whether the remedy for the breach involves forfeiture of benefits.”

Implications for Employers

This decision confirms that nonsolicitation agreements are excluded from the MNAA regardless of the selected remedy for breach of that agreement. Employers may continue to set forth in employment-related agreements that the remedy for breach of a nonsolicitation covenant is the forfeiture of compensation and/or benefits without the risk of that remedy transforming the nonsolicitation agreement into a non-competition agreement covered by the MNAA. Such nonsolicitation agreements will still need to be carefully drafted to be enforceable, but employers can at least rest assured that such agreements will not be void for failing to adhere to the numerous requirements imposed on noncompetition agreements by the MNAA.

For further details concerning the facts of the *Miele* case and the MNAA, please see our prior article [“Massachusetts Supreme Judicial Court Set to Rule on Scope of Massachusetts Non-Competition Agreement Act.”](#)