

Unlawful Agreements to Suppress Wages

In an increasing trend, employers are reaching agreements with their competitors to suppress the wages of their employees. These agreements can take many forms, such as “no-poach” or no-solicit agreements, or agreements to cap the wages in certain common job classifications. Such agreements can violate federal antitrust laws and state unfair competition laws and other state statutory schemes.

Illegal no-poach agreements can take place in a wide variety of industries. The in-home health care industry for example, employs a wide variety of employees, including nurses, physical therapists, and home health care aides, all of which could be subject to anticompetitive restrictions. In 2020, the Antitrust Division of the U.S. Department of Justice issued subpoenas to various home health care companies at the end of October 2019; one company has reported illegal conduct and sought leniency with the DOJ in exchange for immunity from criminal prosecution. CPM attorneys are currently investigating this and other matters.

In the past, the U.S. Department of Justice has prosecuted Apple, Adobe Systems, Google, Intel, Intuit and Pixar for illegally agreeing to not “cold-call” their competitors’ employees regarding employment opportunities. A civil action containing many similar allegations was filed on behalf of a class of workers against Apple, Adobe Systems, Google, Intel, Intuit, Lucasfilm and Pixar. On May 16, 2014, the court approved the class’s settlements with Lucasfilm, Pixar and Intuit in the total amount of \$20 million. Apple, Google, Intel and Adobe subsequently agreed to settle the case with the class for a combined \$324.5 million. And on July 9, 2014, the U.S. Federal Trade Commission settled two charges against ski equipment manufacturers who agreed to not compete for one another’s ski endorsers and employees.

CPM has skilled attorneys who practice in both the employment and antitrust fields. If you are an employee or group of employees who believe your wages have been artificially suppressed by agreements to

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not compete, please follow up with Adam Zapala or Tamarah Prevost.

- Email Adam
- Email Tamarah
- Call Adam or Tamarah at (650) 697-6000.

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