Press Releases

September 18, 2018

ATTORNEY GENERAL MADIGAN REACHES SETTLEMENT WITH WEWORK TO END USE OF OVERLY BROAD NON-COMPETES

Settlement Secures Full Release of Over 1,400 Employees Nationwide from Non-Competes & Eases Restrictions in Existing Non-Competes for Another 1,800 Employees Nationwide

Chicago — Attorney General Lisa Madigan today announced a settlement with WeWork Companies Inc. (WeWork), which provides a network of shared spaces for rent and associated services to clients in 88 global cities, to end the company's use of overly broad and unfair non-compete agreements for nearly all of its employees nationwide. WeWork, which has eight locations in Chicago and approximately 100 Illinois-based employees, had previously required all employees in Illinois to sign such agreements.

"WeWork's non-compete agreements restricted employees by preventing them from moving into new job opportunities," Madigan said. "Today's settlement puts an end to WeWork's unnecessary use of non-compete agreements and removes career obstacles for current and former employees, allowing them to make better decisions for their lives."

Prior to today's settlement, WeWork used non-compete agreements that prohibited all employees from working for competitors after leaving the company. The non-compete agreements not only applied to executive and senior staff, but to all levels of employees, including cleaners, mail associates, executive assistants, and baristas, some of whom are paid as little as $15 an hour.

Today's settlement fully releases over 1,400 employees nationwide from their non-compete agreements. In addition, nearly 1,800 other employees who were previously bound by overly broad non-competes will now enter into agreements with far less restrictive terms. For these employees, the settlement requires WeWork to shorten the non-compete period from one year to six months; dramatically reduce the geographic restriction from any geographic areas in which WeWork operates to a 15-mile radius of those locations engaged in the business lines in which the employee worked; and narrow the scope of activity the employee is restricted from engaging in to only the type of work the employee did for the company. These 1,800 employees include community leads, community managers, interior designers, architects, senior software engineers and more. WeWork must also notify all current and former employees still subject to a non-compete agreement of these changes so that employees are aware of their options.

Madigan and the New York Attorney General's Office worked together to reach a coordinated resolution of the two investigations.

"Workers should be able to take a new job without living in fear of a lawsuit from their former employer," said New York Attorney General Barbara Underwood. "Yet too often, non-compete agreements are misused, especially when it comes to low-wage workers – limiting employees' mobility and opportunity and preventing businesses from hiring the best person for the job. Today's settlement is a key step forward for WeWork's thousands of employees in New York and across the country, and should serve as an example for all businesses as we continue our efforts to end the use of these overly broad non-competes."

Illinois law prohibits the use of non-compete agreements unless 1) the agreements are no greater than necessary to protect a legitimate business interest of the employer, and 2) the subsequent restrictions are reasonable as to their duration, geographic area and scope of prohibited activities. Illinois courts look at the particular circumstances of an employee's job title, access to proprietary information and other factors to determine whether a non-compete agreement is permissible. The Illinois Freedom to Work Act also expressly prohibits use of non-compete agreements for employees earning minimum wage or less than $13 an hour.

According to federal reports, non-compete agreements impact approximately 30 million U.S. workers, or nearly one in five American workers, including roughly one in six workers without a college degree. In response to growing misuse of non-compete agreements, Madigan has provided additional guidance about non-compete agreements.

In addition, in October 2017, Madigan filed a lawsuit against Check Into Cash of Illinois LLC, a subsidiary of national retailer Check Into Cash Inc., for imposing highly restrictive non-compete agreements on low-wage customer service employees at its 33 locations throughout Illinois. Also, in June 2016, Madigan filed a lawsuit against Jimmy John's after learning the sandwich shops required all employees to sign a non-compete agreement as a condition of employment, alleging the agreement was illegal and unenforceable under Illinois law. The company settled with Madigan's office in December 2016 and agreed to not only end the use of non-competes for low-wage workers, but also to inform current and former employees that the agreements would not be enforced.

Employees who believe they are subject to an overly broad non-compete agreement are encouraged to contact Madigan's Workplace Rights Bureau at 1-844-740-5076 or workplacerights@atg.state.il.us.

The settlement was handled by Workplace Rights Bureau Chief Jane Flanagan, as well as Public Interest Counsel Anna Crane and Assistant Attorney General Andrew Tonelli. The mission of Madigan's Workplace Rights Bureau is to protect and advance the employment rights of Illinois residents, particularly low and moderate-income and immigrant residents.

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