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Connecticut Law Tribune

NEWS

Here Come the Lawsuits: Antitrust Litigation on the Rise Over 'No Poaching' Agreements

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Emily Cousins
Litigation Reporter

Since 2016, the U.S. Department of Justice has made it a point to criminally investigate companies with naked no-poaching agreements. Alongside the criminal pursuit comes an antitrust class action in Connecticut challenging big players in the aerospace industry.

Six aerospace engineering firms—Pratt & Whitney, Belcan Engineering Group, Parametric Solutions, Cyient, Agilis Engineering and QuEST Global Services-NA—have been accused of a per se violation of

the Sherman Act via a conspiracy "not to solicit, recruit, hire without prior approval, or otherwise compete for employees" by a class of aerospace workers, according to the complaint filed in 2021.

No-poach agreements, as defined by the DOJ, "involve an agreement with another company not to compete for each other's employees, such as by not soliciting or hiring them."

The plaintiffs argue that the no-poach agreement between the defendants began as early as 2011, and artificially suppressed the market rate for aerospace workers. This led to the plaintiffs receiving lower compensation, the complaint said.

"Each defendant worked together to avoid soliciting or hiring their respective workers," the complaint said. "The ultimate purpose of the conspiracy was to avoid competing on wages and benefits. Increases in labor costs, such as increased wages or benefits to engineers and other skilled employees, increased defendants' overall costs associated with a given project. Accordingly, defendants kept very close tabs on their labor costs and had a strong interest in minimizing or reducing labor costs."

The defendants filed a motion to dismiss the case, and argued that "the conduct alleged does not constitute a per se violation of antitrust laws and, therefore, Plaintiffs were required to plead a claim under the rule of reason," the court's decision said.

The plaintiffs argued that the allegations in the complaint show that they can alternatively pursue a claim under the rule of reason analysis, the decision said.

The court denied the defendants' motion to dismiss the case, adding to the wave of cases challenging companies with no-poach agreements.

"We're pleased that the court has denied the motion to dismiss and that the case will proceed," counsel for the plaintiffs, David Slossberg of Hurwitz, Sagarin, Slossberg & Knuff, said. "We think it's an important case. There have been a lot of Aerospace Workers who have been adversely impacted and we're going to continue to fight to obtain compensation for their damages."

The defendants' counsel did not respond for comment.

While this trial proceeds, there is a corresponding criminal proceeding against the individuals leading the conspiracy at the six companies. They were indicted in 2021 with conspiracy in restraint of trade.

The indictment said, "It was part of the conspiracy that Defendants and their co-conspirators attended meetings and engaged in discussions between and among them concerning restricting the hiring and recruiting of engineers and other skilled-labor employees in the United States between and among Companies A-F."