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### **Court Invalidates Non-Compete Agreement, Goes Easy on Releases of “All” Claims**

August 13, 2008 – Last week, in *Edwards v. Arthur Andersen LLP*, the California Supreme Court ruled that non-competition agreements are generally void as against public policy under California law.

The Court found that Arthur Andersen’s non-competition agreement with Edwards restricted his ability to practice his accounting profession and did not meet any statutory exceptions to the general public policy against such agreements. The agreement prohibited Edwards from performing any services equivalent to those performed for his clients at Arthur Andersen for 18 months upon leaving the company, and imposed a 12 month bar on solicitation of clients to which he was assigned during the 18 months preceding his departure. The Court’s opinion thus establishes that, as a general rule, non-competition agreements are invalid in California, even if they are deemed “reasonable,” if they do not fall under a statutorily carved out exception. The Court noted that there is no “narrow restraint” exception under California law – i.e., no exception for agreements that narrowly limit a portion of a person’s profession.

The Court did not address the applicability of the trade secrets exception to the law, because Edwards did not dispute that portion of his agreement. As such, that exception remains viable in California, at least for the time being. The Court also held that a release of “any and all” claims against an employer was enforceable, but does not waive statutory rights like the right to indemnification under Labor Code section 2802.

This decision makes clear that enforceable non-competes are very narrowly limited in California. Any employer currently utilizing non-competes or considering the use of one is urged to consult their attorney at Hill, Farrer & Burrill LLP. Also clear is that employers may rely on releases of “any and all” claims, with the understanding that such releases will not waive rights guaranteed to employees under law.

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