

Covenants Not To Compete - Fourth District of CA Considers A New Fine Question (Or Two)

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I've written many times about Section 16600 of California's Business & Professions Code which, with limited exceptions, voids covenants not to compete. See [TRO Issued Enjoining Breach Of Non-Compete Agreement Clauses, No Surprises Here - California Court Won't Enforce Non-Compete, Court Says "No Way" To No-Hire, and California's Hostility To Non-Compete Agreements Does Not Vitiating Forum Selection Clause](#). Now, we have a new wrinkle - what is the effect, if any, of Section 16600 on an employee or officer's conduct and duty while employed?

Angelica Textile Services, Inc. v. Park, 2013 Cal. App. LEXIS 818 (Cal. App. 4th Dist. Oct. 15, 2013) involved a suit by a laundry business against a new competitor and one of its former employees, alleging, among other things, violation of the Uniform Trade Secrets Act, Cal. Civ. Code § 3426 *et seq.* In addition to the UTSA claim, the plaintiff asserted claims for unfair competition, interference with business relationships, breach of contract, conversion and breach of fiduciary duty. The trial court ruled that all of the non-UTSA claims were displaced by the UTSA. Then, a jury ruled that no trade secrets had been misappropriated.

On appeal, the plaintiff did not challenge the jury's verdict, but did argue that its non-UTSA claims should not have been dismissed. In an opinion by Justice [Patricia](#)

[D. Benke](#), the Fourth District Court of Appeal reversed. In particular, the Court found that Section 16600 does not affect the conduct and duties of an employee or officer *while employed*. The Court also found that even though documents taken by an employee contained no trade secrets, the employee might still be liable for conversion.

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