

## Can a Move to California Invalidate a Non-Compete?

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It turns out the answer to this question depends on the reason for the move and whether California law applies to the contract.

We all know that California is finicky when it comes to non-competes – so much so that generally speaking, non-competes aren't valid in California. Does that tempt individuals to move to the state not for the sunshine but instead for unrestricted employment?

A Federal District Court in California found that neither reason justified the relocation in [Sabol-Krutz v. Quad Electronics, Inc.](#) Instead, the court found it was the lure of paying in-state tuition at California's universities (a point California Republicans might dispute, but that is an issue for a different blog entry). While the employee disputed the reason for her relocation, it was undisputed that she moved to California from Michigan, where she had been working for her Michigan employer; she then resigned employment to accept a position working in California for the employer's competitor, another Michigan company.

After the employer filed suit against the former employee in Michigan for breaching the non-compete agreement, the employee filed her own suit in California seeking a declaration that her non-compete violated California law. The court rejected her argument after applying the "governmental interest" test because the contract lacked a choice of law provision. The court found that Michigan law and not California law applied because the employee entered into the non-compete agreement in Michigan, she had worked in Michigan for a number of years after signing it, and significantly, her business-related contacts with California were minimal, before and after her relocation. The court also noted that California's interest in applying Michigan law were strong because companies from other states might hesitate to allow their employees to relocate to California if they knew that doing so might invalidate a non-compete agreement.

The court's analysis makes clear that simply relocating to California may not be enough to invoke the protection (or drawbacks, depending on your point of view) of California law.

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