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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION
NO. 2584CV02350

ANAPLAN PARENT, LP and ANAPLAN, INC.

vs.

TIMOTHY BRENNAN

MEMORANDUM OF DECISION AND ORDER ON MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Timothy Brennan (Brennan) was employed by Anaplan Inc. (Anaplan) from March 2019 until he resigned on or about July 25, 2025 to work for Anaplan's competitor, Pigment. Anaplan Parent, LP (Parent) is the parent – or grandparent – company of Anaplan (together Plaintiffs) with the power to manage, oversee, and control Anaplan. In connection with his employment by Anaplan, Brennan entered into three Executive Equity Grant Agreements (Equity Agreements) with Parent each of which contained a non-competition provision.[1] In the instant Motion, Plaintiffs seek an order enforcing the non-competition agreement preventing Brennan from working for Pigment.

Although the parties have briefed and argued extensively whether enforcement of the non-competition provision is reasonably necessary to protect a legitimate business interest, with Brennan arguing he did not have access to Anaplan's confidential business information or good will and Anaplan arguing the opposite,

[1] The Equity Agreements also contained non-solicitation and non-disparagement provisions and a provision requiring Brennan not to disclose confidential business information.

NOTICE SENT BY EMAIL 9/11/25 EC

Brennan also argues that the provision cannot be enforced as it is not in compliance with the Massachusetts Noncompetition Agreement Act (MNAA). After review and consideration, I conclude that Brennan is correct. Because this "gating" issue is resolved in Brennan's favor, I need not and do not consider the other arguments raised in support of the Motion, and the Motion will be **DENIED**.[2]

DISCUSSION

To prevail on their Motion, Plaintiffs must establish "(1) a likelihood of success on the merits; (2) that irreparable harm will result from denial of the injunction; and (3) that, in light of [their] likelihood of success on the merits, the risk of irreparable harm to the plaintiff outweighs the potential harm to the defendant in granting the injunction." Tri-Nel Mgt., Inc. v. Board of Health of Barnstable, 433 Mass. 217, 219 (2001). "[L]ikelihood of success is the touchstone of the preliminary injunction inquiry." Foster v. Commissioner of Corr., 484 Mass. 698, 712 (2020), quoting Maine Educ. Ass'n Benefits Trust v. Cioppa, 695 F.3d 145, 152 (1st Cir. 2012). If the Plaintiffs cannot show a likelihood of success on the merits, "the remaining factors become matters of idle curiosity." Id., quoting Maine Educ. Ass'n Benefits Trust, 695 F.3d at 152. Plaintiffs cannot establish the enforceability of the noncompetition agreements under the MNAA and, therefore, have not shown a likelihood of success on the merits.

A. The MNAA

The MNAA, G. L. c. 149, § 24L, "sets forth the requirements for an employee noncompetition agreement to be enforceable." Miele v. Foundation Med., Inc., 496

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[2] The second "gating" issue Brennan raises is the mandatory arbitration provision in the Equity Agreements. Brennan argues that the enforceability of the non-compete must be presented to an arbitrator, whereas Anaplan argues that Brennan has waived arbitration by his conduct in this case and an earlier case filed in Federal Court. Because I am denying the Motion, I also need not address that argument.

Mass. 171, 174 (2025), citing NuVasive, Inc. v. Day, 954 F.3d 439, 444 (1st Cir. 2020). It "provides 'stronger substantive and procedural protections' to employees subject to such agreements, and limits 'employers to substantially reduced post-employment restrictions.'" Id., quoting DraftKings Inc. v. Hermalyn, 118 F.4th 416, 421 (1st Cir. 2024). As one commentator noted at its passage, the MNAA "dramatically reduces the number of Massachusetts employees who can be subjected to an enforceable noncompetition agreement," and "represents a paradigm shift in favor of employees[]." Jerry Cohen, Karen Breda, and Thomas J. Carey Jr., Employee Noncompetition Laws and Practices: A Massachusetts Paradigm Shift Goes National, 103 Mass. L. Rev. 31, 31 (2022). Even so, "employers retain many options and may benefit from a perhaps greater clarity and certainty in drafting valid and enforceable noncompetition agreements." Id.

The MNAA requires that noncompetition agreements entered into after commencement of employment, such as the Equity Agreements at issue here, must (i) "be supported by fair and reasonable consideration independent from the continuation of employment"; (ii) provide ten business days' notice; (iii) be in writing; (iv) be "signed by both the employer and employee"; and (iv) "expressly state that the employee has the right to consult with counsel prior to signing." G. L. c. 149, § 24L(b)(ii).[3] At issue here is the requirement that the agreement be signed by both the employee and "employer."[4] The precise issue is whether a parent or grandparent company of an employer entity is the employer for purposes of this statute. I conclude it is not.

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[3] The MNAA also requires that noncompete provisions be "no broader than necessary to protect" the business interests identified in the Act, and be limited to 12 months, a reasonable geographic region, and a reasonable scope. G. L. c. 149, § 24L(b)(iii)-(vi).

[4] Brennan also alleges he was not given ten days' notice.

B. Canons of Statutory Interpretation

The issue is one of statutory interpretation and what the Legislature meant by the term "employer." The ordinary and well-trod canons of statutory interpretation apply. To interpret the MNAA's use of the term "employer," I must "ascertain and effectuate the intent of the Legislature in a way that is consonant with sound reason and common sense." Commonwealth v. Wassilie, 482 Mass. 562, 573 (2019). I presume that "the Legislature intended what the words of the statute say." Commonwealth v. Williamson, 462 Mass. 676, 679 (2012). "Ordinarily, where the language of a statute is plain and unambiguous, it is conclusive as to legislative intent." Ciani v. MacGrath, 481 Mass. 174, 178 (2019), quoting Sharris v. Commonwealth, 480 Mass. 586, 594 (2018). I may consider "the words' usual and accepted meaning from sources presumably known to the statute's enactors, such as their use in other legal contexts and dictionary definitions." Commonwealth v. Rossetti, 489 Mass. 589, 593 (2022), quoting Commonwealth v. Vigiani, 488 Mass. 34, 36 (2021).

In addition, "the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." Dermody v. Executive Off. of Health & Hum. Servs., 491 Mass. 223, 230 (2023) (quotations and citation omitted). All provisions of the statute should thus be read in harmony "to give full effect to the expressed intent of the Legislature," Marengi v. 6 Forest Rd. LLC, 491 Mass. 19, 25 (2022), and to avoid rendering any part meaningless. City Elec. Supply Co. v. Arch Ins. Co., 481 Mass. 784, 790 (2019). Accord Camargo's Case, 479 Mass. 492, 498 (2018) (statute must be construed to give effect to all provisions, so that no part is inoperative or superfluous); Ropes & Gray LLP v. Jalbert, 454 Mass. 407, 412 (2009) ("A statute should be construed so as to give effect to each word, and no word shall be regarded as surplusage.").

Finally, I may not construe a statute in a way that is illogical or inconsistent with the Legislature's intent. Randolph v. Commonwealth, 488 Mass. 1, 5 (2021); Ciani v.

MacGrath, 481 Mass. 174, 178 (2019). Nor may I enlarge or limit a statute "unless its object and plain meaning require it." Canton v. Commissioner of Mass. Highway Dep't, 455 Mass. 783, 789 (2010), quoting Rambert v. Commonwealth, 389 Mass. 771, 773 (1983).

C. Analysis

I begin with the text of the MNAA. It does not define the term "employer." It does, however, define an "employee" as "an individual who is considered an employee under section 148B of this chapter" and specifically includes "independent contractors under section 148B." G. L. c. 149, § 24L. From the MNAA's failure to define employer, juxtaposed with its inclusion of a specific definition of employee, I conclude that the Legislature intended the ordinary definition of "employer." The ordinary definition of an employer is "a person or company that provides a job paying wages or a salary to one or more people," Employer, Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/employer (last visited Sep. 10, 2025), or "a person, company, or organization for whom someone works; esp. one who controls and directs a worker under an express or implied contract of hire and who pays the worker's salary or wages." Employer, BLACK'S LAW DICTIONARY (12th Ed. 2024). Those definitions presume a direct provision of services for payment relationship and neither contemplates that a parent or affiliated company of an employer can also or instead be an employee's employer.

I next look to the definition of "employer" in G. L. c. 149, § 1, which provides the general definitions for Massachusetts labor laws "unless a different meaning is required by the context or is specifically prescribed." It defines "employer" only in relation to its use in "sections one hundred and five A to one hundred and five C," as "any person acting in the interest of an employer directly or indirectly." G. L. c. 149, § 1. Those sections concern the prohibition of gender discrimination in the payment of wages. Id.,

§§ 105A-105C. That the Legislature specifically included in the definition of employer "others acting in the interest of the employer" *only* in one specific context necessarily indicates that such persons do not constitute the "employer" in other contexts.[5]

I also consider how the Legislature has defined "employer" in other analogous labor law statutes – i.e., the Unemployment Insurance Act, Workers' Compensation Act, Wage Act, or Chapter 151B. See Aids Support Grp. of Cape Cod, Inc. v. Barnstable, 477 Mass. 296, 301 (2017), quoting Canton, 455 Mass. at 791 (court must "construe statutes that relate to the same subject matter as a harmonious whole and avoid absurd results."). None of those statutes suggest that an "employer" includes a parent or subsidiary entity of an actual employer. And, when the Legislature departs from the general rule to, for instance, impose corporate officer liability under the Wage Act, it does so explicitly. See *infra.* Moreover, despite being interpreted broadly to fulfill their ameliorative and remedial purposes, see, e.g., Athol Daily News v. Board of Review of Div. of Emp. And Training, 439 Mass. 171, 174 (2003) (quotation and citation omitted) ("[W]e are required to construe G.L. c. 151A liberally, in view of its overriding purpose to lighten the burden which now falls on the unemployed worker and his family."), there is no indication that the aforementioned statutes have been held to extend liability (or protections) to parent or subsidiary corporations.

The Unemployment Insurance Act, G. L. c. 151A, defines "employer" as "any employing unit subject to this chapter . . . " and "employing unit" as "any individual or type of organization including any partnership, firm, association, trust, trustee, estate, joint stock company, insurance company, corporation, whether domestic or foreign, or his or its legal representative, or the assignee, receiver, trustee in bankruptcy, trustee or successor of any of the foregoing or the legal representative of a deceased person who

[5] I disagree with Plaintiffs' argument that the definition of employer is not so limited.

or *which has or … had one or more individuals performing services for him or it within this commonwealth.*" G. L. c. 151A, § 1(i), (j) (emphasis added). The statute does not reference a parent or subsidiary or affiliated entity.

The Worker's Compensation Act similarly defines "employer" as "an individual, partnership, association, corporation or other legal entity, or any two or more of the foregoing engaged in a joint enterprise, and including the legal representatives of a deceased employer, or the receiver or trustee of an individual, partnership, association, corporation or other legal entity, *employing employees subject to this chapter* …. [excluding non-profits and home improvement contracts]." G.L. c. 152, § 1(5) (emphasis added). Absent from this extensive definition is any reference to a parent or subsidiary corporation. The statute further provides that "[a] corporation and its subsidiary corporations shall be considered as one entity for the purposes of a self-insurance license; provided, however, that such corporation has signed as guarantor to insure payment of claims by its subsidiary corporations." Id. This explicit and discrete provision relating to a self-insurance license indicates that, in other circumstances, the general rule of corporate separateness applies, and a parent / subsidiary is not considered an employer. Cf. Donis v. American Waste Servs., LLC, 485 Mass. 257, 267 (2020) (noting Legislature has enacted broader definitions of "employer" where so intended).

The Wage Act, G.L. c. 149, § 148, requires "[e]very person having employees in his service [to] pay weekly or bi-weekly each such employee the wages …" and further provides that "[t]he president and treasurer of a corporation and any officers or agents having the management of such corporation shall be deemed to be the employers of the employees of the corporation within the meaning of this section." Id. In so doing, the statute expressly creates liability for individual corporate officers, departing from the common law rule that a corporate officer is not liable for the corporation's legal or

contractual obligations. In contrast, there is no analogous provision abrogating the traditional rule of corporate separateness to impose liability upon a parent corporation or subsidiary under the Wage Act.

General Laws chapter 151B defines "employer" primarily in the negative as it relates to private entities, by excluding "a club exclusively social, or a fraternal association or corporation, if such club, association or corporation is not organized for private profit[.]" G.L. c. 151B, § 1(5). It has never been held to include a parent corporation as an "employer." See DeLia v. Verizon Commc'ns Inc., 656 F.3d 1, 4 (1st Cir. 2011) (parent corporation was not "employer" of subsidiary's employee although employee believed she worked for parent corporation; parent did not supervise or control subsidiary's employee; "Massachusetts cases have determined that an employer can be defined by 'who has direction and control of the employee and to whom ... [the employee] owe[s] obedience in respect of the performance of his work.'"), quoting Fleming v. Shaheen Bros., Inc., 71 Mass. App. Ct. 223, 227 (2008) (additional quotations omitted); Thomas O'Connor Constructors, Inc. v. Massachusetts Comm'n Against Discrimination, 72 Mass. App. Ct. 549, 555-56 (2008) ("[N]o Massachusetts appellate decision ever has interpreted [G.L. c. 151B] § 4(1) to apply to an action brought by or against someone outside the employment unit.").

The MNAA arguably is most analogous to the Workers' Compensation Act's provision of employee benefits in exchange for the employer's immunity from suit. Courts construing that Act have declined to extend worker's compensation immunity to parent corporations based on the doctrine of corporate separateness, and even in circumstances where the corporate veil might be subject to piercing. Gurry v. Cumberland Farms, Inc., 406 Mass. 615, 626 (Mass. 1990), citing Searcy v. Paul, 20 Mass. App. Ct. 134, 139 (1985) ("no basis ... for extending the Massachusetts decisions with respect to 'disregarding the corporate fiction' so as to provide a third party corporation

immunity from an action by an employee of a somewhat affiliated corporation which had made a workers' compensation settlement with that employee."). "[M]ost courts refuse to allow corporations to assume the benefits of the corporate form and then disavow that form when it is to their and their stockholders' advantage. ... We find those views highly persuasive." Id. at 626 (citing cases). See also Berger v. H.P. Hood, Inc., 416 Mass. 652, 658 (1993) (wholly owned subsidiary of plaintiff's employer was not entitled to benefit from the exclusivity provision of the Workers' Compensation Act).[6]

That Parent may have some management and control over the operations of Anaplan does not alter my view. "The mere fact of common management and shareholders among related corporate entities has repeatedly been held not to establish, as a matter of law, a partnership, agency or 'joint venture' relationship that renders the corporations a 'single employer.'" Gurry, 406 Mass. at 624-625, citing Galdi v. Caribbean Sugar Co., 327 Mass. 402, 407–408 (1951).

Finally, I consider the MNAA in the context of the common law, of which I presume the Legislature was well aware when it enacted the statute. Commonwealth v. J.F., 491 Mass. 824, 836 (2023) ("In interpreting a statute, we presume that when the Legislature enacts a law it is aware of the statutory and common law that governed the matter in which it legislates.") (citation omitted). Here, by declining to define employer to include any affiliated entities of the actual employer, I presume the Legislature understood the general and well established doctrine of corporate separateness, which has been long recognized as the default rule, absent express statutory terms or a

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[6] The Gury Court distinguished Wells v. Firestone Tire & Rubber Co., 421 Mich. 641 (1984), noting the "key distinction in *Wells*" which "was that the injured employee of a subsidiary *himself* disregarded the corporate form to assert the parent corporation was his employer for obtaining workers' compensation payments, and then filed a products liability action against that parent, as well." Gury, 406 Mass. at 626, n.7 (emphasis added).

compelling reason in equity to the contrary. See Gurry, 406 Mass. at 626 ("The rule in the Commonwealth is that corporations are to be regarded as separate entities where there is no compelling reason of equity 'to look beyond the corporate form for the purpose of defeating fraud or wrong, or for the remedying of injuries.'"), quoting My Bread Baking Co. v. Cumberland Farms, Inc., 353 Mass. 614, 618 (1968); Standard Oil Co. of New York v. Back Bay Hotels Garage, Inc., 285 Mass. 129, 135 (1934) (corporate officers and directors may be held personally liable for the corporation's contractual debts and obligations only as specifically provided by statute). Accord Standard Register Co. v. Bolton–Emerson, Inc., 38 Mass. App. Ct. 545, 551, 649 N.E.2d 791 (1995) (corporate officer must personally participate in wrongdoing to be liable under c. 93A); Speakman v. Allmerica Fin. Life Ins., 367 F. Supp. 2d 122, 142 (D. Mass. 2005) ("[A] corporation's parents, subsidiaries, and other affiliates are not liable for the actions of the corporation under Chapter 93A unless they played an active role in the alleged wrongful conduct.").

In the face of the Commonwealth's nearly cast iron rule of corporate separateness, if the Legislature had wanted to provide an employer's parent company the ability to enter into and enforce non-competition agreements with and against its subsidiary's employees, it would (and must) have done so explicitly. Absent such clarity, I do not construe the MCNA as Plaintiffs request.

Finally, I consider the policy and purpose of the MNAA itself. The MNAA altered the common law by putting certain limitations on noncompetition agreements and requiring clarity and procedural protections for employees. The signature requirement plainly seeks to ensure that there is concrete evidence that the employer and employee entered a binding non-compete agreement and thereby assumed the reciprocal obligations under the statute. Including a parent corporation (or grand, great, etc.) would seemingly frustrate the purposes of the statute as it could (1) impose

liability on those entities for garden leave – i.e., the obligation to pay the employee after cessation of work – or other consideration and / or (2) more significantly, allow the "employer" to invoke the much broader business interests of parents, subsidiaries, and/or affiliates to enforce more onerous restrictions on the ex-employee. Those results should not be read into the statute.

D. Plaintiffs' Arguments.[7]

Plaintiffs first argue that the inclusion of independent contractors under the MNAA somehow means that the definition of employer must include "parties other than strictly the formal employer" because otherwise independent contractors would not be protected. (Pl. Suppl. Br. at 7). That may well be. But the argument only goes so far. Under that argument, the definition of employer would need to include those entities which contract directly with an independent contractor for services. It cannot be stretched to include a parent or grandparent entity of the employer or direct contractor either for independent contractors or employees. Even applying Plaintiffs' logic, therefore, it would be the *direct* contracting entity and not a parent, grandparent, or other affiliate that would be entitled to the benefits of and be governed by the MNAA for all of the reasons identified.

Plaintiffs argue next that any interpretation of employer that excludes parent and subsidiary companies of the actual employer would lead to the invalidation of independent contractor agreements and incentive equity agreements such as those at issue here. Not so. The MNAA does not "render void or unenforceable the remainder of the contract or agreement containing the unenforceable noncompetition agreement, nor does it preclude the imposition of a noncompetition restriction by a court, whether

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[7] Plaintiffs do not argue or offer any evidence that Anaplan Parent acted as Anaplan's agent. See Machado v. System4 LLC, 471 Mass. 204, 209 (2015).

through preliminary or permanent injunctive relief or otherwise, as a remedy for breach of another agreement or a statutory or common law duty." G. L. c. 149, § 24L(c). And to make the noncompetition agreements enforceable, such contracts need merely be amended to include the *actual* employer as a party and signatory thereto. The hurdles for employers to get the benefit of noncompetition agreements under the MNAA are simply not high.

Plaintiffs next rely on Cynosure LLC v. Reveal Lasers LLC, No. CV 22-11176-PBS, 2022 WL 18033055, at *9 (D. Mass. Nov. 9, 2022) to argue that courts have upheld noncompetition agreements entered into between an employee and parent company of the employer. I have carefully reviewed that case and, although the defendants presented a smorgasbord of reasons why the two contracts at issue that contained noncompetition agreements (one, an equity agreement was with the employers' parent, one with the employer) were unenforceable under the MNAA, it does not appear that any Defendant raised the issue presented here. Indeed, the Court took care to scrutinize the equity agreement's compliance with the MNAA and never even identified the requirement that it be signed by the employer.[8] Cynosure, 2022 WL 18033055, at *9 ("Here, as required by the MN[C]AA, the Equity Agreement is in writing, see Mass. Gen. Laws ch. 149, § 24L(b)(i), supported by consideration distinct from continued employment, encourages employees to consult with counsel, id. at § 24L(b)(ii), does not exceed a period of 12 months after employment, id. at § 24L(b)(iv), and has "mutually-agreed upon consideration," that is, the stock options, in lieu of a "garden clause" as permitted by the MNAA, id. at § 24L(b)(vii)."). Having not analyzed the statute on the issue of what entities are employers for purposes of the MNAA, the Cynosure case simply has no persuasive value.

[8] For what reason I do not know but perhaps the equity agreement was also signed by the employer.

Finally, Plaintiffs argue that, to the extent Parent cannot be considered Brennan's employer for purposes of the MNAA, then the Equity Agreements were entered into "outside an employment relationship" and are therefore not governed by the MNAA. That argument fails on the facts. The Equity Agreements arise in the context of the employment relationship because, in no small part, the restrictive covenant period runs based on the termination of Brennan's employment and, clearly, great but not sufficient efforts were clearly made to comply with the Act. Rooterman, LLC v. Belegu, 778 F. Supp. 3d 298 (D. Mass. 2025) is not analogous because that case concerned noncompetition agreement between a franchisor and franchisee. Id. at 308 (noting MNAA "does not apply in this case), citing G. L. c. 149, § § 24L(a) (excluding "noncompetition agreements outside of an employment relationship").

ORDER

For the foregoing reasons, Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction is **DENIED**.

Debra A. Squires-Lee
Justice of the Superior Court

September 11, 2025