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RAZOR eNewsletter FROM O'Connor Carnathan & Mack

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Intra-Enterprise Exception to Chapter 93A Did Not Apply to Case Alleging Defendant Secretly Competed with Former Employer During and After Employment

In *CMTA, Inc. v. Dussault, et al.*, CMTA, Inc. ("CMTA"), an engineering company, brought suit against its former employee, Joseph Dussault ("Dussault"), and others. Dussault worked for CMTA between October 2020 and January 2025 as a partner and co-manager of CMTA's Framingham, MA office. Among other claims, CMTA alleged that Dussault violated Chapter 93A when he secretly competed with CMTA for his own gain over a lengthy period of time during and after his employment.

Dussault moved to dismiss CMTA's Chapter 93A claim against him, arguing that the intra-enterprise doctrine barred the claim. Although the Court (D. Mass.) recognized that employer-employee disputes are typically outside of the reach of Chapter 93A, it found that the intra-enterprise exception did not apply and denied Dussault's motion.

The Court first cited the 2021 SJC case of *Governo v. Bergeron* and noted that there are limits to the intra-enterprise doctrine, including where a former employee has misappropriated his former employer's proprietary materials during the course of employment and then used those materials in the marketplace. In this case, however, there were no specific allegations that Dussault had misappropriated proprietary information and used it after leaving CMTA. Nevertheless, the Court concluded that the intra-enterprise doctrine was not applicable where CMTA alleged that Dussault had taken steps to compete with CMTA.

This case demonstrates another important nuance to the intra-enterprise doctrine that practitioners should be aware of when seeking to assert or defend against Chapter 93A claims in the employer/employee context.

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