

# Dismissal Sought In Hotly Contested Dispute Between Legal Recruiters

*A Motion for Judgment on the Pleadings says 14-year-old employment contracts and trade secret claims can't be enforced by alleged successor company*

AUSTIN, TEXAS, USA, June 16, 2020 /EINPresswire.com/ -- An acrimonious court battle between

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*Attorney Robert Tauler*

legal recruiters could vanish with the sweep of a pen if a federal judge agrees to dismiss a lawsuit brought by one of the recruiters against a former employee based on the employee's contention that the plaintiff's contracts can't be enforced by newly formed entities.

An attorney for the defendant, [Evan Jowers](#), filed a motion in U.S. District Court on June 16 to dismiss Robert Kinney's second amended complaint. The motion argues that claims made under Texas trade secrets law should be dismissed because federal district Judge Robert Pitman

already ruled that the case is governed by Florida law, where the contract was entered into.

The motion seeks dismissal of key elements of Kinney's lawsuit based on these arguments:

- That a “long chain of contractual assignments, corporate mergers and entity conversions” were done improperly.
- That “Kinney Recruiting, L.P — the only party who is alleged to have entered into the Employment Agreement in dispute — never assigned any rights to the Employment Agreement to any party.”
- That “Plaintiff has acted in bad faith in selecting state claims that were most favorable to him without regard to the law as it existed at the time of the alleged wrongdoing.”

“A chain is only as strong as its weakest link,” said [Robert Tauler](#), an attorney at Tauler Smith LLP in Los Angeles that is representing Jowers. “The same is true of contracts. Here, the original contract was assigned to over five entities over a span of 14 years – three of the assignments occurred after the defendant stopped working for his employer. The law acknowledges that trade secrets just can't be moved without strong links on every part of the chain.”

Based in Hong Kong since 2015, Jowers is recognized as the leading U.S. attorney recruiter in Hong Kong and China. Since 2006 he's placed hundreds of American attorneys in Big Law in Asia. He created the well-known "The Asian Chronicles" blog in 2008 for AboveTheLaw.com. And for many years he's advised top J.D. programs regarding legal careers in Asia, including as part of Harvard's "Ask the Experts" program.

Jowers filed a lawsuit against Kinney in May 2019 in Hong Kong that claims Kinney defamed him in emails to candidates and firms Jowers works with. In August 2019 Jowers filed suit in federal court in Texas claiming Kinney violated RICO statutes and employment laws.

The Hong Kong case was put on hold in December 2019 when U.S. District Judge Robert Pitman issued an injunction, concluding that the defamation lawsuit was a duplication of Jowers' Texas countersuit. Pitman's ruling in the Hong Kong case will be heard in the Fifth Circuit Court of Appeal later this year. DLA Piper, which represents Jowers in the appeal and in the Hong Kong action, argues that Pitman should have considered other legal precedents when he enjoined the separate defamation lawsuit.

Kinney initially sued Jowers in state court in Austin in 2017 alleging that Jowers violated a non-compete clause and took trade secrets when he left the year before to form his own Big Law recruiting company, Jowers/Vargas, in Hong Kong. Kinney's amended complaint, filed in federal court in March 2019, seeks redress for numerous claims against four entities, three of which have already been dismissed from the case.

The motion to dismiss was filed in U.S. District Court, Western District of Texas, Austin Division, case number 1:18-cv-00444.

#### About Tauler Smith LLP

Tauler Smith LLP is a law firm based in Los Angeles founded by Harvard Law graduates Robert Tauler and Matthew J. Smith, who specialize in false advertising and other federal litigation.

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