

Court Rejects Netflix's Challenge to Poaching Injunction

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In the latest blow against Netflix's aggressive recruiting practices, a California appellate court has [affirmed](#) a trial court's injunction against Netflix and in favor of Twentieth Century Fox Film Corporation ("Fox"), thus permanently barring the streaming giant from poaching Fox executives by inducing them to breach their fixed-term employment contracts.

Netflix challenged the injunction, which was issued two years ago under California's Unfair Competition Law ("UCL"), on two grounds. Netflix argued that there are triable issues of fact as to whether: (1) Fox had suffered damages; and (2) Fox's employment contracts were void as against public policy. The Court of Appeal rejected both arguments, finding that the extent of damages to Fox was not relevant to its UCL claim. The Court also rejected Netflix's public policy arguments, noting that there is well-settled law that fixed-term contracts are beneficial to both employers and employees and that, in any event, the challenged contractual provisions can be severed, even if they are in any sense unenforceable or unlawful.

The Court of Appeal also rejected Netflix's challenges to the trial court's permanent injunction, which barred Netflix from soliciting employees who are subject to fixed-term employment contracts with Fox or inducing such employees to breach their fixed-term employment contracts. Specifically, the Court rejected the argument that the injunction was vague or overbroad because Netflix had failed to explain the basis for the objection at the summary judgment hearing, despite having been given ample opportunity to do so. The Court also rejected Netflix's argument that the injunction resulted in specific performance of personal services contracts, pointing out that the injunction **only** applied to Netflix's tortious conduct—and did not bind any current or former Fox executives.

This decision follows [a similar ruling](#) late last year, when a trial court ruled in favor of our client Viacom in its anti-poaching lawsuit against Netflix.

A holding the other way for Netflix could have upended the way California employers solicit and retain employees, especially in the entertainment industry, where fixed-term employment agreements are relatively commonplace. Although the recent Court of Appeal decision is unpublished, it presumably sends a strong message to those who would poach the employees of a competitor who are subject to fixed-term employment agreements.

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