NOTICE: All slip opinions and orders are subject to formal revision and are superseded by the advance sheets and bound volumes of the Official Reports. If you find a typographical error or other formal error, please notify the Reporter of Decisions, Supreme Judicial Court, John Adams Courthouse, 1 Pemberton Square, Suite 2500, Boston, MA, 02108-1750; (617) 557-1030; SJCReporter@sjc.state.ma.us

SJC-13917

ANAPLAN PARENT, LP, & another[1] vs. TIMOTHY BRENNAN.

Suffolk. September 9, 2026. – November 17, 2026.

Present: Budd, C.J., Gaziano, Kafker, Wendlandt, Georges, Dewar, & Wolohojian, JJ.

Contract, Agreement not to compete. Injunction. Practice, Civil, Preliminary injunction. Statute, Construction. Corporation, Corporate entity, Subsidiary. Words, "Employer."

Civil action commenced in the Superior Court Department on August 21, 2025.

A motion for a temporary restraining order and preliminary injunction was heard by Debra A. Squires-Lee, J.

The Supreme Judicial Court on its own initiative transferred the case from the Appeals Court.

Leigh Ann Buziak, of Pennsylvania (Russell Beck also present) for the plaintiffs.

Patrick J. Hannon (Hampton M. Watson also present) for the defendant.

Michaela C. May, for Massachusetts Employment Lawyers Association, amicus curiae, submitted a brief.

[1] Anaplan, Inc.

Samuel Larson, Stephanie Swanson, Mark C. Fleming, & Adam Ellis Harper, for Chamber of Commerce of the United States of America & another, amici curiae, submitted a brief.

WENDLANDT, J. The Massachusetts Noncompetition Agreement Act, G. L. c. 149, § 24L (MNAA or act), sets forth certain "minimum requirements" for an agreement that restricts an employee's postemployment competitive activities to be "valid and enforceable." G. L. c. 149, § 24L (b). Pertinent to this case, one such requirement is that such an agreement be "in writing and signed by both the employer and employee." G. L. c. 149, § 24L (b) (ii). This case presents the question whether an agreement that is in writing and is signed by the employee but bears the signature of the parent company of the employee's employer satisfies this requirement. We conclude that it does not. Further concluding that such an agreement does not fall within an exception to the act's requirements for "noncompetition agreements outside of an employment relationship," G. L. c. 149, § 24L (a), we affirm the Superior Court judge's denial of preliminary injunctive relief to enforce an agreement between plaintiff Anaplan Parent, LP (parent), and defendant, Timothy Brennan, who was an employee of the parent's subsidiary, plaintiff Anaplan, Inc. (subsidiary), purporting to

restrict Brennan's postemployment activities competitive with the subsidiary.[2]

Background. 1. Facts. The subsidiary, an enterprise software company, hired Brennan in 2019.[3] Three years later, Brennan entered into an equity incentive agreement with the parent, a limited partnership with a stated purpose to "invest in, manage, operate, oversee, structure and control, directly or indirectly," the subsidiary, the only operating subsidiary of the parent.[4]

In connection with the agreement, Brennan received an equity interest in the parent and became one of its limited partners. In exchange, he agreed to certain restrictive

---

[2] We acknowledge the amicus briefs submitted by the Chamber of Commerce of the United States of America and Associated Industries of Massachusetts, and the Massachusetts Employment Lawyers Association.

[3] At the commencement of his employment with the subsidiary, Brennan entered into an employment agreement that required Brennan to assent to a provision purporting to restrict his postemployment competitive activities. The employment agreement was signed by both Brennan and the subsidiary; however, the case at bar does not concern the noncompetition provision of the employment agreement, and neither the parent nor the subsidiary contends that it is enforceable under the MNAA. See note 13, infra.

[4] The subsidiary, Anaplan, Inc., is directly owned by Anaplan Holdings, LLC, which is in turn owned by Anaplan Intermediate Holdings, Inc., which is in turn owned by Anaplan Parent, LP. While this renders plaintiff Anaplan Parent, LP, the corporate "great-grandparent" of plaintiff Anaplan, Inc., we use the term "parent," as the parties have, for simplicity.

covenants, including a covenant that, for the twelve-month period after his employment with the subsidiary ceased, Brennan would not render services to a business that competes with the subsidiary.[5] The agreement provided that the equity grant

---

[5] More particularly, the agreement provided:

> "During Participant's Continuous Service and for a period of [twelve] months after the date on which Participant's Continuous Services ceases, Participant shall not directly or indirectly participate in any activity . . . that would qualify as Competition in the Territory . . . ."

"Participant" was defined as Brennan. "Continuous Service" was defined as "an individual's continuous employment with, or continuous provision of services to, the Partnership or one of its Subsidiaries." As discussed infra, Brennan provided no services to the parent; accordingly, his "Continuous Service" period ended with his employment with the subsidiary.

"Partnership" was defined as the parent "and/or its direct and indirect Subsidiaries and/or controlled Affiliates," including the subsidiary. "Competition" was defined to mean

> "to directly or indirectly . . . render services to or for . . . any . . . business or enterprise (including any division, group or franchise of a larger organization), whether as a . . . director, officer, employee, . . . or other participant, that conducts, participates in or constitutes a business or business line that the Partnership is conducting or that the Partnership conducted during the one-year period immediately preceding the date that Participant is no longer employed or engaged by the Partnership or any Subsidiary or Affiliate of the Partnership."

"Territory" was defined as

> "all of the United States . . . and all of each other country in which the Partnership generates sales, markets products or provides services during Participant's employment or engagement or, upon termination of Participant's employment or engagement, generated sales,

"serve[d] as fair and reasonable consideration" supporting the restrictive covenants, including the restriction on Brennan's postemployment activities in competition with the subsidiary.[6] The agreement was signed by the parent's interim chief financial officer on behalf of the parent and was also signed by Brennan. It was not signed by, or on behalf of, the subsidiary. However, the agreement expressly identified the subsidiary as a third-party beneficiary, providing that "[c]ertain provisions of [the agreement] are entered into for the benefit of and shall be enforceable by . . . [the subsidiary] as provided herein."[7]

---

marketed products or provided services at any time during the one-year period prior to the termination of Participant's employment or engagement."

[6] Annex C to the equity incentive agreement tailored the general terms of the agreement apparently to conform to certain State requirements for the enforceability of noncompetition agreements, including certain requirements under the MNAA. Thus, Brennan agreed and acknowledged that he "had ten business days from receipt of [the agreement] to review and accept [the agreement], prior to it becoming effective." See G. L. c. 149, § 24L (b) (i). Annex C also provided that the covenant not to compete "shall not apply if the [subsidiary] terminates [Brennan's] employment without Cause." See G. L. c. 149, § 24L (c) (iii).

[7] In addition to the covenant not to compete at issue in this appeal, the equity incentive agreement between the parent and Brennan also contained a nonsolicitation provision, prohibiting Brennan from soliciting any of the parent or the subsidiary's other participants, associates, consultants, agents, or representatives. The agreement also barred Brennan from soliciting the parent or the subsidiary's customers, suppliers, vendors, licensees, distributors, contractors, or other business relations. And the agreement further prohibited Brennan from making "any derogatory or negative statement or

Over the next two years, Brennan entered into two additional equity incentive agreements with the parent; each contained materially the same terms. Both granted Brennan equity interests in the parent in exchange for, inter alia, nearly identical noncompetition covenants. As with the original equity incentive agreement, Brennan and the parent signed, but the subsidiary did not. The subsidiary was also identified as a third-party beneficiary to these agreements.

The record details the services Brennan rendered to the subsidiary as its employee. By contrast, the record does not show that Brennan provided any services to the parent, and Brennan expressly denied doing so. On July 25, 2025, Brennan notified the subsidiary that he had accepted an offer to join Pigment, another enterprise software company that competes with the subsidiary.

2. Procedural history. In August 2025, the parent and the subsidiary commenced the present suit and filed a motion for a temporary restraining order and preliminary injunction to prohibit Brennan from starting his employment at Pigment.[8] In a

---

communication about the [parent] or its Affiliates" or their "respective businesses, products, services or activities" other than truthful statements compelled by valid legal order.

[8] The parent and the subsidiary first commenced a suit in Federal District Court, seeking a temporary restraining order and injunction, but dismissed the suit before any decision on the motion. They commenced the present suit the same day.

thorough, well-reasoned opinion, the Superior Court judge denied the motion. The judge determined that the parent and the subsidiary had not shown a likelihood to succeed on the merits because the noncompetition covenants were not enforceable under the MNAA, as the equity incentive agreements were not signed by Brennan's employer, the subsidiary. The judge also rejected the alternative argument that the covenants were not governed by the act, which does not apply to "noncompetition agreements outside of an employment relationship." G. L. c. 149, § 24L (a). The judge reasoned that the covenants arose "out of an . . . employment relationship."[9] Id. The parent and subsidiary timely filed a notice of appeal.[10] We transferred the appeal sua sponte.

---

[9] The employment agreement between Brennan and the subsidiary, see note 3, supra, provided that "all claims relating to [Brennan's] employment" would be settled by "final and binding arbitration." The arbitration provision specified that "[i]njunctive relief and other provisional remedies will be available in accordance with Section 1281.8 of the California Code of Civil Procedure," which permits arbitrators to issue "[p]reliminary injunctions and temporary restraining orders," Cal. Civ. Proc. Code § 1281.8(a)(3). In the Superior Court, Brennan referred to the arbitration provision in his opposition to the sought preliminary injunctive relief; after the judge denied the injunctive relief, Brennan filed a motion to compel arbitration, which the judge allowed.

[10] The parent and the subsidiary unsuccessfully sought an injunction pending appeal from the Superior Court judge and from a single justice of the Appeals Court. The single justice recognized that the case presented "a matter of first impression."

3. Statutory framework. In a "hard fought compromise" nearly a decade in the making, the Legislature enacted the MNAA in 2018 to govern the enforceability of noncompetition agreements in the Commonwealth as part of broader economic development legislation. Brownsberger, A Study in Persistence and Compromise (Aug. 13, 2018), https://willbrownsberger.com/a-study-in-persistence-and-compromise-legislation-regulating-agreements-not-to-compete [https://perma.cc/VPQ2-SRXW]. See St. 2018, c. 228, § 21 (titled "An Act relative to economic development in the Commonwealth"). The MNAA defines a "[n]oncompetition agreement" as an agreement "under which the employee . . . agrees that he or she will not engage in certain specified activities competitive with his or her employer after the employment relationship has ended." G. L. c. 149, § 24L (a). The agreement must either be "between an employer and an employee, or otherwise arising out of an . . . employment relationship." Id. Certain enumerated agreements are excluded from the statutory definition of "[n]oncompetition agreement," including "noncompetition agreements outside of an employment relationship."[11] Id. These excluded agreements are not governed by the act. Id.

[11] The other exclusions include provisions not to solicit the employer's "employees[,] . . . customers, clients, or vendors," "noncompetition agreements made in connection with the sale of a business . . . when the party restricted by the

The MNAA provides employees with procedural and substantive protections; a noncompetition agreement must meet these "minimum requirements" "[t]o be valid and enforceable."[12] G. L. c. 149, § 24L (b). Relevant to the case at bar, one minimum requirement is that "the agreement must be in writing and signed by both the employer and employee." G. L. c. 149, § 24L (b) (ii). The act also requires that any noncompetition agreement entered into after commencement of employment "must be supported by fair and reasonable consideration independent from the continuation of employment." Id. Another minimum requirement prescribes that "notice of the agreement must be provided at least [ten] business days before the agreement is to be effective," and that the agreement must "expressly state that the employee has the right to consult with counsel prior to signing."[13] Id.

---

noncompetition agreement" will "benefit from the sale," "forfeiture agreements," "nondisclosure or confidentiality agreements," "invention assignment agreements," "garden leave clauses," "noncompetition agreements made in connection with the cessation of or separation from employment" that "expressly give[the employee] seven business days to rescind acceptance," and "agreements . . . to not reapply for employment to the same employer after termination of the employee." G. L. c. 149, § 24L (a).

[12] The MNAA prohibits the enforcement of certain noncompetition agreements entirely, including noncompetition agreements with minors, students engaged in short-term employment, most hourly workers, and those who have been fired or laid off. G. L. c. 149, § 24L (c).

[13] Where a noncompetition agreement "is entered into in connection with the commencement of employment," it also "must

Additionally, the act requires that the noncompetition agreement not restrict employees for more than one year after termination of employment absent employee wrongdoing, and for no more than two years in that event. G. L. c. 149, § 24L (b) (iv). Noncompetition agreements also "must be no broader than necessary to protect one or more of the following legitimate business interests of the employer": its trade secrets, confidential information, and good will. G. L. c. 149, § 24L (b) (iii).

Further, the act prescribes that noncompetition agreements "must be reasonable in geographic reach" and "in the scope of proscribed activities." G. L. c. 149, § 24L (b) (v), (vi). The act also requires that a noncompetition agreement must "be supported by a garden leave clause or other mutually-agreed upon

---

be provided to the employee by the earlier of a formal offer of employment or [ten] business days before the commencement of the employee's employment." G. L. c. 149, § 24L (b) (i).

As discussed, see note 3, supra, neither the parent nor the subsidiary contends that the noncompetition provision in Brennan's employment agreement with the subsidiary, which stated that it was governed by California law and which was executed at the commencement of his employment, is enforceable. Executed in 2019, after the MNAA became effective on October 1, 2018, see St. 2018, c. 228, § 71, the employment agreement likely did not comply with at least one of the act's "minimum requirements" for enforceability of a noncompetition agreement, G. L. c. 149, § 24L (b). At the least, it does not appear to "expressly state that the employee has the right to consult with counsel prior to signing." G. L. c. 149, § 24L (b) (i).

consideration between the employer and the employee" specified in the noncompetition agreement.[14] G. L. c. 149, § 24L (b) (vii). And a noncompetition agreement otherwise "must be consonant with public policy." G. L. c. 149, § 24L (b) (viii). The MNAA provides that a "court may, in its discretion, reform or otherwise revise a noncompetition agreement so as to render it valid and enforceable to the extent necessary to protect the applicable legitimate business interests." G. L. c. 149, § 24L (d).

Discussion.[15] 1. Standard of review. When examining the denial of a preliminary injunction, we "determine whether there

---

[14] A garden leave clause is defined as "a provision within a noncompetition agreement by which an employer agrees to pay the employee during the restricted period, provided that such provision shall become effective upon termination of employment unless the restriction upon post-employment activities are waived by the employer or ineffective." G. L. c. 149, § 24L (a). A garden leave clause itself is not considered to be a "noncompetition agreement" under the act, see note 11, supra.

[15] Before turning to the merits, we pause to address Brennan's request that we dismiss the present appeal in view of the judge's allowance of Brennan's motion to compel arbitration. See note 9, supra. In the circumstances here, where the motion to compel arbitration was filed and allowed after the judge denied the sought preliminary injunctive relief, we decline Brennan's request. See Hull Mun. Lighting Plant v. Massachusetts Mun. Wholesale Elec. Co., 399 Mass. 640, 649 (1987) ("an order compelling arbitration does not preclude a court from awarding necessary pre-judgment relief"). Indeed, none of the cases upon which Brennan relies resulted in the dismissal of an appeal from an order of preliminary relief, in view of arbitration. See Cybulski v. Vaiani, 75 Mass. App. Ct. 382, 384-385 (2009); Cunningham v. Lyft, Inc., 17 F.4th 244, 253 (1st Cir. 2021), quoting Next Step Med. Co. v. Johnson & Johnson

was an error of law or whether the judge abused his or her discretion -- that is, whether the judge applied proper legal standards and whether there was reasonable support for the judge's evaluation of factual questions." Massachusetts Port Auth. v. Turo Inc., 487 Mass. 235, 239 (2021), citing King v. Town Clerk of Townsend, 480 Mass. 7, 9 (2018).

> "We consider the same factors as did the judge: whether the party seeking the preliminary injunction is likely to succeed on the merits; whether irreparable harm will result from a denial of the injunction; and whether, in light of the moving party's likelihood of success on the merits, the risk of irreparable harm to the moving party outweighs the potential harm to the nonmoving party in granting the injunction."

Turo Inc., supra, citing Garcia v. Department of Hous. & Community Dev., 480 Mass. 736, 747 (2018), S.C., 495 Mass. 86 (2024).

Where, as here, the judge's analysis of the likelihood of success on the merits prong rested on a question of statutory construction, we review that question de novo. See Foster v.

Int'l, 619 F.3d 67, 70 (1st Cir. 2010) (reviewing issue of preliminary relief on merits after ordering arbitration in recognition that court "may issue 'an interim preliminary injunction' . . . in the period before 'the arbitrator is set up and able to offer interim relief itself'").

Moreover, the substantive issues before us are fully briefed and concern important questions of law regarding the enforceability of noncompetition agreements in the Commonwealth. As such we exercise our discretion to reach them. See Automile Holdings, LLC v. McGovern, 483 Mass. 797, 808 (2020), citing Doe v. Police Comm'r of Boston, 460 Mass. 342, 343 n.3 (2011).

Commissioner of Correction, 488 Mass. 643, 651 (2021), citing Doe v. Worcester Pub. Sch., 484 Mass. 598, 601 (2020).

2. Statutory construction. "In construing a statute, we begin with its plain language." Patel v. 7-Eleven, Inc., 494 Mass. 562, 567 (2024), quoting Matter of the Estate of Mason, 493 Mass. 148, 151 (2023).

> "[A] statute must be interpreted according to the intent of the Legislature ascertained from all its words construed by the ordinary and approved usage of the language, considered in connection with the cause of its enactment, the mischief or imperfection to be remedied and the main object to be accomplished, to the end that the purpose of its framers may be effectuated."

Patel, supra, quoting Matter of the Estate of Mason, supra. "Because of their remedial nature," we afford an employment statute, like the MNAA, a liberal construction, Jinks v. Credico (USA) LLC, 488 Mass. 691, 700 (2021), "to promote the accomplishment of its beneficent design," Patel, supra at 568, quoting Patel v. 7-Eleven, Inc., 489 Mass. 356, 363 (2022), S.C., 494 Mass. 562 (2024).

3. Analysis. a. "Employer" under the MNAA. The parent and the subsidiary first contend that the covenants not to compete satisfied the act's minimum requirement that noncompetition agreements be in writing signed by both the employee and the employer because the term "employer" as used in the act includes a parent of the direct employer. We disagree.

The term "employer" is not defined in the act. However, the act defines the term "employee," which is instructive as to the meaning of "employer." See Crown Communities, LLC v. Austin, 497 Mass. 632, 646 (2026), quoting Garcia v. Steele, 492 Mass. 322, 326 (2023) ("[w]e do not construe terms in isolation; instead, we consider the specific language of a provision in the context of the statute as a whole").

Under the act, an employee is "an individual who is considered an employee under [G. L. c. 149, § 148B (independent contractor statute)]; provided, however, that the term 'employee' . . . shall also include independent contractors under [the independent contractor statute]." G. L. c. 149, § 24L (a). The independent contractor statute, in turn, classifies an individual performing any service to an entity either as "an employee or an independent contractor." Depianti v. Jan-Pro Franchising Int'l, Inc., 465 Mass. 607, 621 (2013). It provides:

> "[A]n individual performing any service . . . shall be considered to be an employee . . . unless:--
>
> "(1) the individual is free from control and direction in connection with the performance of the service, both under his contract for the performance of service and in fact; and
>
> "(2) the service is performed outside the usual course of the business of the employer; and,
>
> "(3) the individual is customarily engaged in an independently established trade, occupation, profession or

> business of the same nature as that involved in the service performed."

G. L. c. 149, § 148B (a).

As set forth supra, the MNAA defines "employee" for purposes of the act to include both individuals who are classified as employees and those classified as independent contractors under the independent contractor statute. Thus, under the MNAA, an employee is an individual performing any service for an entity, regardless of whether the individual is classified as an employee or an independent contractor under the independent contractor statute. It follows that an "employer" under the MNAA is, at a minimum, an entity for which an individual performs any service. Accord Black's Law Dictionary 663 (12th ed. 2024) (defining "employer" as "[a] person, company, or organization for whom someone works; esp[ecially], one who controls and directs a worker under an express or implied contract of hire and who pays the worker's salary or wages"); G. L. c. 151A, § 1 (j) (unemployment insurance statute defining "employer" as legal entity with "one or more individuals performing services for" it); G. L. c. 152, § 1 (5) (under workers' compensation act, employer is "legal entity . . . employing employees"). Here, the record shows that Brennan performed services for the subsidiary; thus, the subsidiary is Brennan's "employer" for purposes of the MNAA.

Nevertheless, the parent asserts that it is Brennan's "employer" for purposes of the act. In assessing the merits of this argument, it is instructive that to determine which, as between two entities, is an individual's employer under both the wage laws, G. L. c. 151, §§ 1 and 1A, and the independent contractor statute, G. L. c. 149, § 148B, we are guided by the principle that "the entity for [which] the individual directly performs services is ordinarily the individual's employer" (emphasis added), Jinks, 488 Mass. at 696, citing Depianti, 465 Mass. at 624 n.17, such that generally "one entity is not the employer of a different entity's employees," Jinks, supra at 698-699. Thus, a parent is not ordinarily the employer of its subsidiary's employees. See generally Engelhardt v. S.P. Richards Co., 472 F.3d 1, 4 (1st Cir. 2006), quoting Lusk v. FoxMeyer Health Corp., 129 F.3d 773, 778 (5th Cir. 1997) ("there is a 'strong presumption that a parent corporation is not the employer of its subsidiary's employees'" for purposes of subjecting parent to liability for acts of subsidiary against its employees). This general rule admits of at least two

exceptions -- corporate disregard[16] and joint-employer status[17] -- neither of which is contended to apply in the present circumstances.

Admittedly, the parent notes that two separate, affiliated entities may be liable for each other's acts under the doctrine of joint venture liability, contending that the parent's "active role" in connection with the subsidiary should permit it to

---

[16] Corporate disregard, when applicable, sets aside the principle that "corporations are generally to be regarded as separate from each other and from their respective stockholders." Jinks, 488 Mass. at 697-698, quoting My Bread Baking Co. v. Cumberland Farms, Inc., 353 Mass. 614, 618 (1968). It is a narrow exception, applicable only where "necessary to provide meaningful remedy for injuries and to avoid injustice." Jinks, supra at 697, quoting Attorney Gen. v. M.C.K., Inc., 432 Mass. 546, 555 (2000). Neither the parent nor the subsidiary contends that the requirements for corporate disregard are met. See Jinks, supra, quoting Sebago v. Boston Cab Dispatch, Inc., 471 Mass. 321, 328 (2015) (listing considerations).

[17] An entity other than the entity for which the individual directly performs services can be considered a "joint employer" where it "has retained for itself sufficient control over the terms and conditions of the second entity's employees." Jinks, 488 Mass. at 701, citing Swallows v. Barnes & Noble Book Stores, Inc., 128 F.3d 990, 993 n.4 (6th Cir. 1997). The parent does not contend that it qualifies as Brennan's joint employer. The parent did not hire Brennan, did not have the power to fire him, did not supervise him, did not dictate or pay his salary, and did not maintain his employment records. See generally Jinks, supra at 703, quoting Baystate Alternative Staffing, Inc. v. Herman, 163 F.3d 668, 675 (1st Cir. 1998) (setting forth nonexclusive factors for determination of joint employer status under minimum wage and overtime statutes, G. L. c. 151, §§ 1, 1A). The record shows that the parent's only payments to Brennan were in the form of equity, which the equity incentive agreements make clear "are not part of normal or expected compensation."

enforce the noncompetition agreement with its subsidiary's employee. But the record does not support that the parent entered into a joint venture with the subsidiary as pertains to Brennan. Instead, the parent and the subsidiary have maintained their separate corporate forms. See note 4, supra. Having taken advantage of the benefits of this separateness, they may not disavow that form when it is to their advantage. See Spaneas v. Travelers Indem. Co., 423 Mass. 352, 354 (1996), citing Berger v. H.P. Hood, Inc., 416 Mass. 652, 658 (1993), S.C., 424 Mass. 144 (1997).

Application of the general rule -- that the entity for which the individual directly performs services is ordinarily the individual's employer -- demonstrates that the parent was not Brennan's employer. In fact, the record does not support that Brennan performed any services whatsoever for the parent, let alone that he performed any services directly for the parent. The record evidences only that Brennan provided services directly to the subsidiary; Brennan's sole relationship with the parent appears to be that he and the parent entered into the equity incentive agreements pursuant to which Brennan received equity in the parent, becoming a limited partner,[18] in

[18] A limited partner of a partnership is not, by virtue of that status, the partnership's employee. See G. L. c. 109, § 19 (b) (1) (limited partner need not be limited partnership's employee).

exchange for certain restrictive covenants, including the noncompetition provisions in dispute, to benefit the subsidiary.

The parent and the subsidiary invite us to adopt the definition of "employer" from G. L. c. 149, § 1, which defines "employer" to include "any person acting in the interest of an employer directly or indirectly," on the basis that the Legislature's placement of the MNAA within c. 149 demonstrates its intent to adopt that definition of the term. See Care & Protection of Jaylen, 493 Mass. 798, 802 (2024), quoting Charland v. Muzi Motors, Inc., 417 Mass. 580, 582-583 (1994) ("We strive to construe a statute 'in harmony with prior enactments to give rise to a consistent body of law' wherever possible, assuming as we must that the 'Legislature was aware of the existing statutes'"). But the definition of "employer" set forth in G. L. c. 149, § 1, expressly is limited to application in connection with G. L. c. 149, §§ 105A to 105C, 105E, and 105F. Contrary to the parent's and the subsidiary's suggestion, the definition set forth in G. L. c. 149, § 1, shows that where the Legislature intended to adopt this definition of "employer," it knew how to do so, and with regard to the MNAA, codified at § 24L, it chose not to do so.[19]

[19] The parent and the subsidiary also argue that the term "employer" should be "narrowed to the facts of this case," to include a parent "acting solely and exclusively in the interests of" its subsidiary. Not surprisingly, we do not construe a

The equity incentive agreements failed to satisfy the act's minimum requirement that the employer sign the noncompetition agreement because the subsidiary, Brennan's employer, did not sign them.[20] See G. L. c. 149, § 24L (b) (ii). Accordingly, unless the noncompetition covenants fall outside the act's reach, discussed infra, they are not valid and enforceable.

b. Noncompetition agreements outside an employment relationship. In the alternative, the parent and the subsidiary contend that the noncompetition covenants are not governed by the act because the covenants fall within an exclusion for "noncompetition agreements outside of an employment relationship." G. L. c. 149, § 24L (a). In particular, the parent and the subsidiary contend that "a noncompetition agreement must either be 'inside' the employment relationship or

---

statute of general application to conform to the unique facts presented by a particular corporate relationship in any one case. See Haggerty v. Foster, 103 Mass. 17, 20 (1869) ("[A] statute cannot be construed so as to meet the hardships of individual cases").

[20] The parent and the subsidiary suggest that the judge "could have . . . adjusted the definition of 'employer'" to salvage the noncompetition covenants, relying on the provision of the MNAA permitting courts, as a matter of discretion, to "reform or otherwise revise a noncompetition agreement so as to render it valid and enforceable to the extent necessary to protect the applicable legitimate business interests." G. L. c. 149, § 24L (d). This argument lacks merit. The referenced provision concerns the court's discretionary authority to reform or revise a noncompetition agreement; it is not a rule of statutory construction.

'outside' the employment relationship" such that if (as we conclude supra) the parent is not Brennan's employer, then the noncompetition covenants must fall outside the relationship. Applying this reasoning, the parent and the subsidiary maintain that the noncompetition covenants are not governed by the minimum requirements of the act because they constitute "noncompetition agreements outside of an employment relationship." Id. We disagree.

An agreement does not fall "outside" the employment relationship simply because the employer failed to sign the agreement; instead, we look to the agreement itself to determine whether it is a "noncompetition agreement" as defined in the act as either one "between an employer and an employee," or one "otherwise arising out of an . . . employment relationship." G. L. c. 149, § 24L (a). As discussed supra, the noncompetition covenants here were not between Brennan, an employee, and his employer, the subsidiary; instead, the agreements were between Brennan and the parent.

We turn to consider whether the covenants constitute noncompetition agreements "otherwise arising out of an . . . employment relationship." G. L. c. 149, § 24L (a). As the parent and subsidiary acknowledge, Brennan entered into the covenants "[i]n connection with his employment with" the subsidiary, and the covenants themselves purport to impose

postemployment restrictions on competition with the subsidiary for a period after his employment with the subsidiary ended. The equity incentive agreements specifically identified the subsidiary, Brennan's employer, as a third-party beneficiary of, inter alia, the noncompetition covenants, and provided consideration (in the form of equity in the parent) to Brennan in exchange for his promise not to compete with the subsidiary, his employer, after his employment ended. In these circumstances, we conclude the noncompetition covenants arose out of an employment relationship. Accordingly, the covenants are "noncompetition agreements" as defined by the act.

The parent and the subsidiary next rely on the canon against surplusage, which directs courts to "give effect to each word" in a statute. Matter of the Estate of Slavin, 492 Mass. 551, 556 (2023), quoting Ropes & Gray LLP v. Jalbert, 454 Mass. 407, 412 (2009). In particular, they maintain that the canon requires that because the term "noncompetition agreement" is defined in the act as "an agreement between an employer and an employee, or otherwise arising out of an . . . employment relationship," and because the exception refers to "noncompetition agreements outside of an employment relationship," the exception contemplates agreements "arising out of an . . . employment relationship" that are also "outside of an employment relationship" (emphasis added). G. L. c. 149,

§ 24L (a). Because the noncompetition covenants here arose from Brennan's employment relationship with the subsidiary, and because, having been executed by the parent rather than by Brennan's employer, the noncompetition covenants were outside of the employment relationship, the parent and the subsidiary continue, the covenants fall within the exception.[21]

To be sure, "absent contrary context," "statutory terms used more than once should be given a consistent meaning throughout." Miele v. Foundation Med., Inc., 496 Mass. 171, 177 (2025), citing Williams v. Board of Appeals of Norwell, 490 Mass. 684, 694 (2022). And where the Legislature has defined a term expressly in the statute at issue, we generally use that definition in construing the act. See Arias-Villano v. Chang & Sons Enters., Inc., 481 Mass. 625, 628 (2019), quoting 2A N.J. Singer & S. Singer, Statutes and Statutory Construction § 47:7 (7th ed. rev. 2014) ("When a legislature does define statutory language, its definition usually is binding on courts, even if the definition varies from a term's ordinary meaning").

---

[21] The parent and the subsidiary's reliance on Rooterman, LLC v. Belegu, 778 F. Supp. 3d 298, 308 n.3 (D. Mass. 2025), which commented that it "appear[ed] that the [MNAA did] not apply" to the franchisee-franchisor relationship because it was "outside of an employment relationship," is misplaced (citation omitted). Whether a franchisee-franchisor relationship falls under this exception has no bearing on this case, where nothing in the record shows that Brennan was a franchisee of either the parent or the subsidiary.

However, "[c]ourts may not be bound by statutory definitions where they . . . result in unreasonable classifications . . . or defeat a statute's major purpose." Singer & Singer, supra. Accord Department of Agric. Rural Dev. Rural Hous. Serv. v. Kirtz, 601 U.S. 42, 60 (2024), quoting Digital Realty Trust, Inc. v. Somers, 583 U.S. 149, 163-164 (2018) (court may "deviate from a statutory definition . . . when applying the definition would be 'incompatible with [the Legislature's] regulatory scheme' or would 'destro[y] one of the statute's major purposes'"). Similarly, the canon against surplusage, like all canons of construction, is not absolute, "[a]nd it certainly does not require us to favor 'an unusual meaning that will avoid surplusage' over a more natural one." Stanley v. Sanford, 606 U.S. 46, 56 (2025), quoting A. Scalia & B.A. Garner, Reading Law: The Interpretation of Legal Texts 176 (2012).

We "avoid any construction of statutory language which leads to an absurd result, or that otherwise would frustrate the Legislature's intent." Conservation Comm'n of Norton v. Pesa, 488 Mass. 325, 332 (2021), quoting Bellalta v. Zoning Bd. of Appeals of Brookline, 481 Mass. 372, 378 (2019). A construction of the phrase "noncompetition agreements outside of an employment relationship" that, as urged by the parent and the subsidiary, would exclude from the act's reach an employee's covenant not to compete with his or her employer because it is

signed, contrary to the act's minimum requirement requiring the employer's signature, by an entity that while affiliated with the employer is not the employer, would frustrate that requirement. G. L. c. 149, § 24L (a). Among other reasons, the Legislature expressly provided that the statute applies not only to agreements "between an employer and an employee," but also agreements "otherwise arising out of an . . . employment relationship." Id. Accordingly, where, as here, a noncompetition agreement arises out of an employment relationship because it is tethered to the employee's employment relationship with his or her employer, it does not fall within the exception for "noncompetition agreements outside of an employment relationship" simply because the employer failed to sign it.[22] G. L. c. 149, § 24L (a).

[22] Contrary to the parent and the subsidiary's contention, our conclusion does not mean that a parent company cannot enforce a noncompetition agreement whenever its own limited partner works for one of the parent's subsidiaries. All that is needed is compliance with the act's minimum requirements. The parent and the subsidiary do not explain the failure of the subsidiary to sign the agreement. At oral argument, counsel for the parent and the subsidiary posited that, while not prohibited "as a matter of law," the subsidiary could not sign the agreement because of unspecified "tax consequences" and "other formalities of partnership law." Regardless of whether this assertion finds support in the tax or partnership laws, it does not alter the MNAA's requirement that the employer must sign the noncompetition agreement in order for it to be valid and enforceable.

c. Windfall. The parent and the subsidiary question whether, as a matter of policy, the result here is equitable, asserting that if the failure to comply with what they deem the "technical" requirement at issue renders the noncompetition covenants invalid and unenforceable, then employees like Brennan would receive a windfall.[23] To be sure, the failure to comply with the requirement set by the Legislature that the employer sign the noncompetition agreement resulted in an invalid and unenforceable noncompetition agreement in the circumstances of this case. However, the Legislature has determined that this minimum requirement, like the other minimum requirements of the act, must be met for a noncompetition agreement to be valid and enforceable, as expressly provided by the act. See G. L. c. 149, § 24L (b) (setting forth "minimum requirements" noncompetition agreement "must meet" "[t]o be valid and

[23] Of course, the covenant not to compete is only one of the restrictive covenants in the equity incentive agreements for which Brennan received compensation. The agreements included provisions unaffected by the MNAA, including covenants regarding the treatment of confidential information, nonsolicitation of employees and customers, and nondisparagement. See G. L. c. 149, § 24L (a) (MNAA does not apply to, inter alia, "nondisclosure or confidentiality agreements"; "covenants not to solicit . . . employees[,] . . . customers, clients, or vendors of the employer"; and nondisparagement agreements). Indeed, shortly before Brennan began work at Pigment, the parent and the subsidiary separately sought, and were later awarded, a temporary restraining order prohibiting Brennan from accessing the subsidiary's confidential and trade secret information.

enforceable"). This holds true regardless of the corporate form chosen by a parent and a subsidiary. We are not at liberty to disregard the Legislature's mandate. See Matter of the Estate of Mason, 493 Mass. at 166 n.32 ("Such policy arguments are best directed to the Legislature; they do not control our construction of the statute"); Shabshelowitz v. Fall River Gas Co., 412 Mass. 259, 266 (1992) ("The Legislature, . . . and not a court, is the appropriate forum for consideration of those policy arguments").

Conclusion. For the foregoing reasons, we conclude that the noncompetition covenants are unenforceable for failing to comply with the act's minimum requirement that the agreement be in writing and signed by both the employee and the employer. Accordingly, the order denying the motion for a temporary restraining order and preliminary injunction is affirmed.

So ordered.