

1/16/2020

Chairman Marcotte of the House Commerce and Economic Development
House Commerce and Economic Development

Thank you to the Committee for inviting me here, I am Alexandra Vitale of Burlington, and I am here to support bill H.1.

On Friday December 14, 2018, I was hired by Sojourn Bicycling & Active Vacations company as a Tour Manager. The contract I received from Sojourn and signed that day stated that it “set forth the complete terms of my employment.” It did not include a non-compete clause. I saved this contract in my email after electronically signing it and I considered it as my terms of employment with Sojourn moving forward. (Please see the attached document.)

On Wednesday, December 19, 2018, I started work at Sojourn. I received training and was presented with a folder full of documents to fill out and sign. These documents included a W2 form, a direct deposit form and another document. I learned only very recently that this additional document contained a non-compete clause. My Sojourn supervisor did not discuss this additional document with me on December 19, 2018, or at any time thereafter. He did not indicate that any changes were made to the Sojourn contract I signed on December 14, 2018 -- the one that I understood contained the “complete terms of my employment.” I had no reason to think that this additional document that was mixed in with several other forms I received on December 19, 2018, was different than the one I signed five days earlier on December 14th. I was not provided with a copy of this additional document after I signed it on December 19, 2018, or after I resigned from Sojourn on July 5, 2019. (Please see the attached document.)

Almost a year later, on December 9, 2019, my current employer, Discovery Bicycle Tours and I received in the mail a copy of this December 19, 2018 document together with a December 4, 2019 cease-and-desist letter from Sojourn’s lawyer, Mr. Will Towle. Mr. Towle’s letter demands that Discovery terminate me immediately and return any trade secrets or proprietary information (of which I have none). The enclosure with Mr. Towle’s letter was the first time I saw the additional document I signed on my first day at Sojourn (December 19, 2018) since that day. (Please see the attached document.)

With the clause listed below restricting noncompetes, the same thing that happened to me -- which I consider to be a bait-and-switch -- can be prevented:

H.1 (2)(C)(i) “If the agreement is entered into in relation to the commencement of employment, it is provided to the employee with the formal offer of employment or 10 days before the commencement of employment, whichever is earlier.”

As Tour Manager at Sojourn, I was a rank-and-file employee. My day-to-day tasks included administrative work organizing vendor reservations at hotels and restaurants for bicycle tours. All the information I handled concerning Sojourn’s tours is public on their website: Routes, vendors, hotels, meals, etc. Sojourn’s President and Vice President were copied on every email I sent, and they approved every primary company decision.

I never managed or oversaw any Sojourn employees. I was not upper management and my short stint at Sojourn did not allow me to advance at the company. Sojourn had five full-time employees when I worked there. I was there the shortest amount of time (six months). My Sojourn salary was below the Average Vermont Median Household Income and I was never offered health insurance.

I decide to leave Sojourn after my six-month review, at which I was threatened with termination after asking about health insurance benefits. I applied to seventeen companies, and the best job offer I received was from Discovery Bicycle Tours. Discovery offered me an equal salary plus full health insurance benefits. To protect my livelihood, I made the best decision I could for me and my family.

I only wish to continue working in my field in a fair and honest manner. The active vacations industry is a field I am passionate about, and it is the field in which I am endeavoring to build my career. An inability to be employed in my professional trade would have profoundly negative effects on my personal well-being and financial self-sufficiency.

Sojourn’s threat to sue me and my current employer has taken a financial and emotional toll on me. I have incurred thousands of dollars in legal fees and I live in fear of being sued and losing my job. While I continue to maintain that Sojourn’s non-compete clause is invalid and unenforceable due in part to the way in which it was presented to me, I am concerned about noncompete clauses generally because I have heard from multiple individuals about how their employers required them to sign vague and/or overreaching non-compete agreements. Most of these people do not feel safe testifying

for fear of retribution by their employers. I am here to testify in the hopes of preventing further suffering by others.

This attack against hard-working individuals striving to earn an honest living in Vermont should not be tolerated by our State government.

I would like to thank the House Commerce and Economic Development Committee as well as Martin LaLonde, Emilie Kornheiser, and Charlie Kimbell for your hard work on this bill and for advocating for the rights of Vermont workers.

Sincerely,

Alexandra Vitale