

Protecting Trade Secrets

Part of what makes your business great is probably the leg up that you have on the competition. Like most companies, confidential trade secrets set you apart from others and give you a competitive edge because this information is not common knowledge and cannot be acquired easily by those outside your organization. When an employee who has access to these trade secrets leaves the company either by termination or resignation, he/she could take this confidential information and use it for personal advantage.

Employers do have the law on their side when protecting trade secrets via The Uniform Trade Secrets Act, which generally allows companies to seek damages to prevent and remedy the release of trade secrets. Because trade secret laws arise out of state laws, and not federal jurisdiction, they differ between states.

What are Trade Secrets?

Trade secrets are considered information which serves the following purpose:

- Is of economic value to the employer now or in the future because the information is kept in confidence
- Information that is not ascertainable by others within reasonable means who would monetarily benefit from it

- Employers make continued efforts to maintain the secrecy of the information
- Information that is kept in greater confidence than less confidential information protected by a restrictive covenant agreement
- Ease with which the information can be ascertained or copied by others

When determining if information revealed by an employee to a third party was a trade secret, the courts

It is strongly recommended that employers create a confidentiality agreement, non-compete and non-disclosure contracts for their employees to sign to protect against the breach of trade secrets in addition to the protections allotted to them via states' laws. Also, consider conducting regular

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generally examine the following factors:

- The extent to which the knowledge was known to others within and outside of the company
- Ways in which the company tried to protect the information and maintain its secrecy
- Value of the information to both the employer and their competitors
- Amount of money and resources used to create the revealed information

meetings to remind employees what information the company considers confidential and remind employees why the company needs to maintain confidentiality of this information.



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