



## **Non-Competes... Who Needs 'Em!**

At the intersection of hiring and developing key employees, protecting sensitive data, and growing a customer base, non-competition agreements can be a vital and sometimes necessary part of any business' HR strategy. Over the past two decades, Texas courts have shown more and more deference to non-compete agreements; a positive step for employers who seek to maintain a competitive advantage in the marketplace. Often, the question raised is "How do I know if I need a non-compete?"

### **Who Is Entrusted With Sensitive Information?**

A non-compete agreement is a powerful tool that can be used to protect confidential business information. Business owners should be mindful of what information is given to which employees. The receptionist at the front desk likely does not have or need access to strategic pricing information or project financials. On the other hand, project managers or senior-level sales leads likely interact with such information on a routine basis and need it to perform their daily duties. In the wrong hands, such data could be beneficial to a competitor and is thus worth protecting. Accordingly, as a rule of thumb, the more access an employee has to confidential business information, the more likely a non-compete is a wise protective measure.

### **What is the Nature of the Industry?**

Is your widget highly specialized and/or made by only a handful of competitors? If either is true, there is a good reason to utilize non-compete agreements. In the case of the former, the obvious risk is that of a rogue employee could take the old boss's unique idea and set up a competing enterprise utilizing confidential information gleaned from the previous company. Non-competes can be used to stop this type activity on the front end. The agreement could also serve as a good deterrent to departing employees to behave properly.

In the event only a handful of competitors exist in your industry, non-compete agreements are a must for key employees you may not want jumping ship. As a rule of thumb, the smaller the industry, the more valuable your employee's knowledge of your business is to a competitor. Non-competes can be used to protect that knowledge by effectively side-lining a departing employee for a period of time, holding them at bay from joining up with your direct competition.

In all, taking the time to examine your business, workforce, and the industry players is crucial to the long-term protection of your company and position in the marketplace. Assuming the situation calls for it, non-competes are an excellent tool to incorporate into your larger employee retention and HR strategy. The employment attorneys at Andrews Myers stand ready to assist your business in any way we can.

**For more information please contact [Colby Hodges](#).**