

OUR PRACTICE

Restrictive Covenants

Employers will often turn to confidentiality agreements, non-compete clauses and other forms of restrictive covenants in order to protect trade secrets. Clients from numerous industries have counted on Baker Donelson to write and enforce their covenants, including manufacturing and distribution businesses, financial institutions, technology companies, health care companies, physician placement services, hospitals and medical service providers, educational institutions and non-profit and government employers, as well as a number of public companies in various industries.

We represent employers in litigation involving restrictive covenants. We also handle arms-length business to business and lessor-lessee covenants, and write and enforce covenants given in the sale of businesses. Drawing on years of experience and a broad base of knowledge, Baker Donelson attorneys learn the rules of every state in which a client does business and write covenants so that they favor the employer. Whether it's defending or enforcing a covenant, we utilize every resource available, reaching across offices and practice areas to obtain successful results for our clients. Many of our cases in this area of the law have been reported and are often cited.

Several of our lawyers have focused a considerable amount of their practice on restrictive covenants. They are significantly involved in the writing, enforcement and challenge of these covenants for many clients, handling between 10 and 30 cases in front of state and federal trial courts and Courts of Appeals per year.



Representative Matters

- Obtained Temporary Restraining Order enjoining employee and employee's new employer in financial education industry from competing.
- Successfully defended technology employees who were sued for allegedly violating their restrictive covenants.
- Obtained a seven-figure verdict on behalf of a medical device manufacturer after two employees took confidential information and stole a key client to create a competing venture.
- Negotiated the transition of senior executives and department managers out of the client's employment, resolving whistleblower claims as part of the agreements.
- Negotiated a separation agreement from a major corporation on behalf of a senior executive, including the resolution of non-compete concerns, and negotiated the executive's new employment agreement with a different company.
- Obtained injunctive relief against former employees who were violating their restrictive covenants.
- Obtained Temporary Restraining Order and Temporary Injunction enjoining employee and employee's new employer in sporting goods industry from competing.
- Represented nationally known pest control company to successfully enforce a non-compete agreement against a former employee who began contacting our client's customers and encouraging them to move their business to the new employer. Employee conceded to claims at hearing on the motion for a preliminary injunction.
- Served as lead counsel in a trade secret and breach of fiduciary duty claim against a former employee of a major regional petroleum products distributor. Successfully argued to temporarily restrain and then preliminarily enjoin the former employee from soliciting the client's customers. Obtained civil contempt sanctions against the former employee for violating the temporary restraining order. Negotiated settlement in favor of the client against the employee and his subsequent employer to compensate the employer for theft of its trade secrets.

- Served as co-counsel in a trade secret and breach of fiduciary duty claim representing a heavy machinery distributor. Successfully obtained a temporary restraining order and preliminary injunction against the rogue former vice president of sales and his competing company, who conspired with a Chinese-based manufacturer to steal trade secrets. On the eve of trial, the rogue former employee and his company declared bankruptcy. Ultimately, due to the successful litigation, the court entered a \$13.1 million default judgment against the Chinese-based manufacturer.
- Defended a complex breach of contract complaint filed against an individual related to an employment agreement that included non-competition, non-solicitation, and confidentiality provisions. Reached a favorable settlement for the client.