

Legal Connections



POWERED BY THE COLUMBUS BAR ASSOCIATION

MARCH 17, 2017

CAN'T LIVE WITH 'EM. CAN'T LIVE WITHOUT 'EM.

While true when talking about the opposite sex, it is equally true when referring to the relationship between employers and employees. Without skilled workers, a business would have no products or services to sell. Workers are the most important asset to any business, but they also pose a significant – perhaps the greatest – risk to the security of confidential business information and success of the business.



BRIGID HEID
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After all, employees have easy access to confidential business information and company clients. Disgruntled employees can disrupt systems, ruin relationships, steal information and poach clients and staff, all for their own personal satisfaction or financial gain. Fortunately, employers can take some reasonable precautions to protect their business interests from these bad actors.

Use Non-Disclosure Agreements (NDAs). A well-crafted NDA will clearly define the employer's "Confidential Information," permissible and impermissible use of that information by employees and the consequences for misappropriation (court

injunctions, monetary damages and recovery of attorney's fees). NDAs can be used with employees, consultants, vendors or worksite visitors who are granted access to confidential information or processes.

Use Non-compete Agreements for key employees. Not every employee need sign a non-compete agreement, but tactical use of

non-compete agreements for employees with access to confidential business information or who form key customer relationships should be considered. Non-compete agreements are governed by state law and impose post-employment restrictions on employees. To be enforced by the courts, the restrictions must be reasonable under the circumstances to protect the legitimate business interests of the company. States construe non-compete agreements differently and certain states do not enforce non-compete agreements that limit an employee's right to work for a competing business. Generally, states will enforce reasonable work-for-hire agreements and non-solicitation provisions that limit the solicitation of workers and clients. Knowledgeable legal counsel can help a business draft a defensible non-compete agreement.

Treat confidential information as confidential. If an employer wouldn't want its competition to know about it, the information should be marked "CONFIDENTIAL," "Do Not Copy" and/or "Read ONLY." Consider password protecting files and only sharing confidential information on a need-to-know basis. Failing to take reasonable steps to treat information as confidential will defeat any attempt to enforce an NDA.

Adopt and enforce policies and practices to protect information. Should visitors be permitted in all areas? What personal recording devices can be brought on site? Can laptops be taken home? Can files be copied on thumb drives? How is "Confidential Information" secured?

Obtain intellectual property protections. Patents, copyrights, trademarks and works-for-hire agreements establish the employer's ownership of inventions and creative works.

These steps can't prevent an employee from misusing company information or unfairly competing, but they will give the employer the necessary tools to take legal action to protect its business from an employee they could have lived without.



"Perpetual learning is key to innovation and professional development."

Jill Snitcher McQuain, Esq.
Executive Director • jill@cblaw.org

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EDUCATION AND EVENTS

Wednesday, March 22 • 1:30 – 4:45 p.m.
2016 OVI Institute: Part Two
3.0 CLE Hours

Friday, March 24 • 9 a.m. – 12:15 p.m.
The Harding Affair
3.0 CLE Hours

Saturday, March 25 • 9 – 11 a.m.
Notary Public: Seminar & Test

Wednesday, March 29 • 1:30 – 4:45 p.m.
The High Performance Law Firm
3.0 CLE Hours

Friday, March 31 • 9 a.m. – 12:15 p.m.
Carefully Taught (Video Replay)
3.0 CLE & Professional Conduct Hours

All classes listed are offered at the Columbus Bar Associations offices, 175 S. Third St. Ste. 1100. To register, call 614-221-4112 or enroll online at www.cblaw.org.

» Save the date for our Bankruptcy Law Institute (May 4 - 5) and Probate Law Institute (May 16) • Visit cblaw.org for more information

APPLYING LEAN SIX SIGMA AT YOUR FIRM: PART ONE

The business of law isn't what it used to be, the economic climate has changed and the billable hour is dying. Clients want value, and lawyers face increasing competition from customary rivals as well as emerging online DIY companies that have commoditized many of the services historically provided by traditional law firms. It is time to start thinking about how to revolutionize the way you practice law. It's time to start thinking about accomplishing more while using less resources. For lawyers to succeed in this new marketplace,

they must be efficient and effective. They must be innovative and willing to reinvent themselves to stay ahead of the pack. Today, lawyers must deliver quality legal services and value to their clients. It's time to build a better mousetrap.

Lean Six Sigma is a methodology widely adopted in many industries that is making its way into legal. It is the marriage of two philosophies: Lean, which is all about efficiency and eliminating waste, and Six Sigma, which focuses on quality of work, or doing things



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right the first time. LSS is also all about the client, and understanding what is valuable to them. Value is defined as something that changes the client's situation, something the client is willing to pay for and something that is done right the first time. If an action you are taking does not provide value to the client, it's time to examine the

process and adjust, eliminating waste. This eight-part series in Business First is going to focus on the eight Wastes – how



you can recognize them and how you can work to eliminate them in your firm. Check back on March 31 as we tackle the first waste: Defects.

THE **HIGH PERFORMANCE** LAW FIRM

3.0
CLE HOURS

Wednesday, March 29
1:30-4:45pm

Learn how to generate more value for you and your clients by making your practice more efficient.

