

REVISITING NON-COMPETE PROTECTIONS IN TEXAS

The Use of Non-Competition Covenants to Protect Confidential Information in the Digital Age

May 17, 2019

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Non-Competes: Shields to Protect Your Company in the Digital Age

- **Protect sensitive information and trade secrets**
 - Increased prevalence of jobs requiring access to sensitive company information
 - Modern technology enables fast, discreet misappropriation
- **Protect goodwill**
 - Technology enables sales and other employees to have much broader reach to wider set of customers
 - Easier than ever to make contact with former customers (email, text messages, social media, etc.)

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BACKGROUND

Non-Competes in Texas

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A Brief History

- **1987: *Hill v. Mobile Auto Trim, Inc.***
 - Texas Supreme Court holds that most non-competes are unenforceable
 - Overturns nearly 100 years of precedent enforcing reasonable non-competes
- **1989: Covenants Not to Compete Act**
 - Goal: reverse *Hill* and ensure consistency in enforcement
 - Restored prior common law requirements:
 - ▶ Ancillary to an otherwise enforceable agreement
 - ▶ Reasonable as to duration, geography, and substantive scope
 - Requires courts to reform overbroad non-competes

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First appeared as part of the conference materials for the
41st Annual Corporate Counsel Institute session

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New Litigation Landmines

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