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The Right to Retain Silence?-The Enforceability of NDAs After #MeToo

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 Since 2017, #MeToo, Time's Up, and reports in the national press have laser-focused the public's attention on the pervasiveness of sexual misconduct in America.



#MeToo Movement Focuses Attention on NDAs

 #MeToo has also revealed the role of nondisclosure agreements (NDAs) in settling sexual misconduct claims, sparking an ongoing public debate over their enforceability.

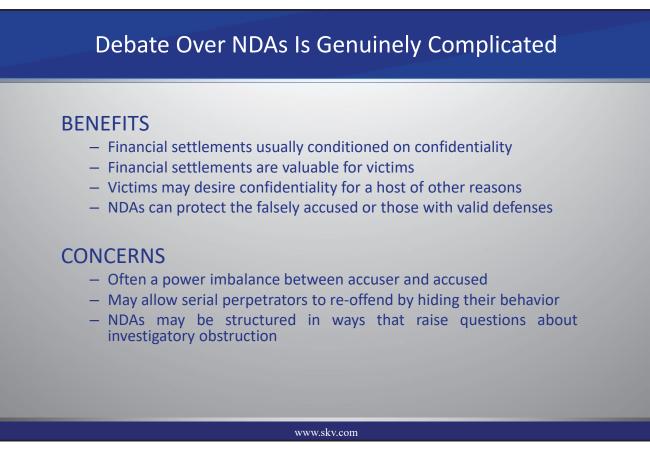
BBC

NDAs 'should not silence sexual harassment claims'

The Washington Post How NDAs kept the lid on harassment scandals — and why that might be changing



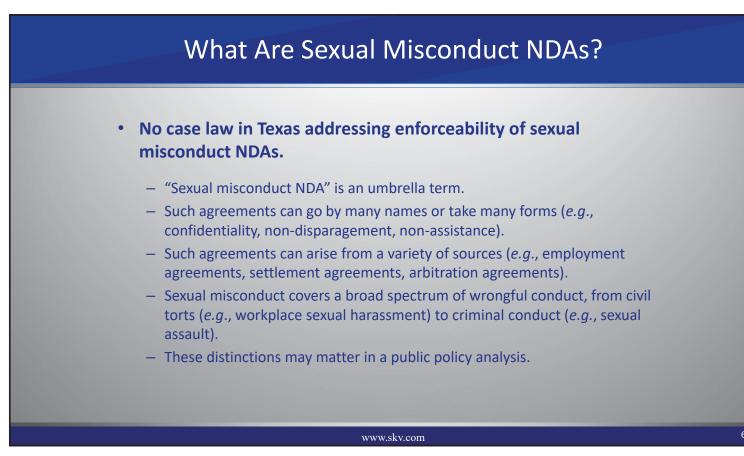
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NDAs in Texas

- NDAs prevent the disclosure of trade secrets and confidential information. See In re Mktg. Inv'rs Corp., 80 S.W.3d 44, 47 (Tex. App.—Dallas 1998, no pet.).
- NDAs are generally enforceable and do not violate public policy. See McGowan & Co., Inc. v. Bogan, 93 F. Supp. 3d 624, 636 (S.D. Tex. 2015) (citing Marsh USA Inc. v. Cook, 354 S.W.3d 764, 768 (Tex. 2011)).
- Unlike noncompete covenants, NDAs are not restraints on trade. Thus, reasonable time, geographical, and scope-ofactivity limitations are not prerequisites to an NDA's enforceability. See Zep Mfg. Co. v. Harthcock, 824 S.W.2d 654, 663 (Tex. App.— Dallas 1992, no writ).

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