



23rd ANNUAL

LABOR AND EMPLOYMENT LAW CONFERENCE

TEXAS LAW ON COVENANTS NOT TO COMPETE AND TEXAS UNIFORM TRADE SECRETS ACT (TUTSA)

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Honorable Grant Dorfman
HARRIS COUNTY DISTRICT JUDGE, 334TH DISTRICT

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WHAT COURTS WANT ATTORNEYS TO KNOW ABOUT TRO HEARINGS

- Courts want attorneys to agree to some form of relief if possible
- Ex parte TROs are limited to exceptional circumstances
- Time for hearing is limited; prepare for truncated presentation
- What to include in the brief

WHAT EMPLOYERS NEED TO DO TO GET A TRO ON A NON-COMPETE

- Evidence of the probability of harm
- Proving reasonability
- Language of TRO should be precise

WHAT EMPLOYEES NEED TO DO TO PREVENT A TRO IN NON-COMPETE CASE

- Lack of irreparable injury
 - Damages remedy
- No solicitation plus evidence of significant impact on employee
- No new consideration at time non-compete presented
- Unreasonable terms of non-compete

FACTORS INDICATING THAT TRO WILL BE GRANTED

- Actual vs. potential customers contacts
 - Is risk of contact enough?
- Lost sales
- Specialized Industries
- Misappropriation of confidential information

FACTORS AGAINST TRO

- No proof of actual solicitation
- Working for competitor but in different role
- Working in different territory
- Customers followed employee on their own

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Title search: Texas Law on Covenants Not to Compete and Texas Uniform Trade Secrets Act (TUTSA)

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