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Protecting Your Legal Rights- Restrictions on Employment; Non-Compete Agreements by: **Joette S. Doran, J.D.**

Generally, a non-compete agreement provides certain restrictions on competing against an employer based on a certain time period and geographical area. In order to be an enforceable non-compete agreement, courts generally find that the restrictions must be narrowly drafted to reasonably protect the legitimate business concerns of the employer. Various factors are considered in determining whether the company has a legitimate business concern in restricting employment. These factors include a detailed analysis of the employer's business and its relationship with its clientele, where the company and the employee performed work, the employee's skills and knowledge of the company's business and the type of position held by the employee. Courts analyze each restrictive covenant and employment relationship independently to determine whether the restrictive covenant is enforceable. In doing so, courts generally find those executive employees who have had significant responsibilities and exposure to the employer's business information and customers are subject to broader restrictions.

Typically there are two times in an employment relationship that an employee in a highly competitive industry will be faced with a restrictive covenant. At the job offer stage as a term of an employment agreement and at the end of the relationship as part of a severance agreement. In each agreement, the employer attempts to offer something of value, usually compensation, in exchange for the restriction on the employee from competing against the company. A careful analysis of the terms of agreement is required at both stages of the relationship since such agreements may be enforceable if properly drafted. Accordingly, because a covenant not to compete provision in an employment or release agreement can potentially restrict future employment and require the payment of monetary damages, you should carefully consider the terms with legal counsel before signing the agreement. For additional employment information, please visit our web site at www.joettedoran.com.

**This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.*

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