



## Protecting Your Trade Secrets When Key Employees Join a Competitor

Something can qualify as a trade secret even if it is not the *Coca-Cola* formula, the most famous trade secret of all time. California and federal law recognize a company's trade secrets may be the lifeblood of a business even if the business generates only modest sales. California courts have protected trade secrets for more than a half century, and the nationwide importance of trade secrets has elevated to the point where Congress recently passed a federal version of the Uniform Trade Secrets Act.

Contrary to popular belief, the bar for establishing a trade secret is not very high. Information will generally be considered a trade secret if the information gives a company a competitive advantage and is not generally known to competitors. While secret formulas, recipes and proprietary techniques are often what come to mind when people think about trade secrets, trade secrets also include customer lists, knowledge of customer preferences, pricing and virtually all information businesses keep confidential from competitors to maintain a competitive advantage.

Trade secret litigation often arises when a business hires an employee from a competitor. Departing employees sometimes solicit customers with whom they used to do business. Depending upon how former employees approach former customers, the contact may be permissible or a violation of trade secret laws.

The consequences for stealing trade secrets are considerable. The person or company stealing trade secrets can be subject to an injunction and forced to disgorge profits. The law also allows for the trebling of damages and the collection of attorneys' fees in certain circumstances. When a company hires a competitor's employees, both companies must be careful about

protecting its interests and prevailing in litigation, should a lawsuit be filed. Whether a company is planning to hire a key employee from a competitor or has been victimized by a departing employee who stole customers or proprietary information, it is essential the company hire experienced trade secret counsel early to collect evidence or document the absence of trade secrets theft.

Trade secrets cases are among the most sophisticated business litigation matters requiring trial attorneys experienced in handling trade secrets cases to verdict. If you believe you have been victimized by departing employees who have taken trade secret information, or you plan to hire a competitor's employees, call Klein & Wilson to understand your rights and liabilities.

*The Orange County Trial Lawyers Association voted Gerald Klein "Top Gun" twice for Business Litigation and Professional Negligence. Mr. Klein has tried approximately 40 cases through verdict and is a member of the American College of Trial Lawyers and the American Board of Trial Advocacy. Los Angeles Magazine recognized Mr. Klein as one of the top 50 lawyers in Orange County.*

