



CONTACT US

Phone:
248.321.8941

Fax:
248.305.5154

Email:
info@clairmontadvisors.com

Website:
www.clairmont-advisors.com

I CAN BUY INSURANCE FOR THAT?

Covering Acts of Rogue Employees

A rogue employee participates in distributing confidential information to an outside party, requiring you to send notice to thousands of potentially affected parties.

Are you covered?

Some, but not all cyber liability policies include coverage for acts of rogue employees and may even cover intentional acts of the employee which cause damage to the company's computer system.

If you do not have cyber coverage you should consider adding such a policy to your business insurance program.

Please Contact Us for Additional Information.

The Insurance & Risk Report

APRIL/MAY 2015

It is common for companies in a particular industry to hire employees of a competitor. In this process, it is important to be mindful of the potential risk of the new employee bringing confidential information / trade secrets to the new job.

This significant exposure recently came to light in a Wayne County Circuit Court case where a jury awarded \$5,300,000 to a company whose trade secrets were stolen by a departing employee.

We also discuss some coverages available for acts of rogue employees.

We hope that you find this Issue of interest. If we can be of assistance to you, please contact us.

Wayne County Jury Awards \$5.3M Against Subsequent Employer in Misappropriation Case

In a March 2015 verdict, a Wayne County Circuit Court jury awarded \$5,300,000 in damages to a company whose trade secrets were stolen by a departing employee. This verdict was against the subsequent employer that hired him. There, an employee transferred confidential information via e-mail to Company B, his soon to be employer, in his last days of employment with Company A.

It happens all the time. . . a valuable employee moves from one company to another company in the same industry. The employee brings information that might be helpful in his or her new job. Is this permissible? Does it expose the new employer to any potential liability? The above mentioned case confirms that the answer is "yes."

The Michigan Uniform Trade Secrets Act (MUTSA) defines a trade secret a lot broader than having the secret recipe for Coca Cola and includes information that derives economic value if there are reasonable efforts undertaken to keep the information secret. Courts in Michigan have found customer lists, information on costs and internal weaknesses all to be trade secrets.

If you are hiring an employee (and in particular one who has been in the same industry) it is advisable to put in writing to the new employee that he or she may not bring any confidential documents or electronic data to the new place of employment and shall not share any such confidential information with the new company. Efforts should be made to assure that this mandate is followed.



MELISSA HIRN
ESQ.



MICHAEL S. HALE
ESQ., JD., CPCU, AAI

Our Experts Have Been Published In The Following:

Insurance Law & Practice (ICLE)
Michigan Lawyers Weekly
The Michigan Bar Journal
The CPCU Journal
The Michigan Agent Magazine

Looking to Assess a Claim Denial?

Commercial or personal lines claim denial or reservation of rights? We can help assess the viability of the insurer's decision and provide input on the claims process.

Call us at 248-321-8941 for additional information.



Website:

www.clairmont-advisors.com

It is a good idea to hold an exit interview upon separation from employment. This meeting should remind the departing employee of the confidentiality policies of the company and any confidentiality or noncompete agreements previously signed by the employee.

It is also a good idea to have legal counsel review noncompete and confidentiality agreements entered into between employees and former employers.

Employers should take reasonable steps to protect confidential information as defined by MUTSA including:

- Requiring electronic key access to rooms/information
- Clear marking of confidential information through use of a stamp or otherwise
- Limiting access of computer-stored information
- Restricting access of information by visitors
- Maintaining employee policies on confidential information, confidentiality, non-solicitation, anti-raiding and non-compete agreements
- Routine verification of confidentiality procedures
- Routine employee reminders of the confidentiality policy of the company
- Pursuit of departing employees with access to confidential information
- Prohibiting removal of confidential information from company premises
- Conducting exit interviews where the departing employee is informed of the types of information the employer considers to be a trade secret or confidential

**FOR ADDITIONAL INFO
CALL US AT 248-321-8941**