

Play It Safe with Separate Confidentiality Agreement

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Although employee handbooks provide a number of important benefits to employers, they do not necessarily provide all the legal protections managers might wish, particularly in the area of confidentiality and trade secrets.

In a recent New Jersey district court decision (*Metropolitan Foods, Inc. dba Driscoll Foods v. Kelsch*), the court ruled that a provision in a company handbook could not be used as a valid confidentiality agreement between employer and employee.

The lesson learned from this particular case is the importance of having employees sign a separate confidentiality agreement, apart from the employee handbook. Enforceable confidentiality agreements should:

- Spell out the types of information the company considers confidential;
- The requirement for employees to keep such information confidential both during employment as well as beyond termination or departure;
- The requirement for employees to surrender all confidential information upon termination or departure;
- Notice that the company is entitled to specific legal remedies if the confidentiality agreement is breached;
- A statement to the effect that the confidentiality agreement has no bearing on an employee's at-will status.

Our employment law practice group is committed to helping California employers comply with all state and federal employment laws and avoid potential litigation. For further information please contact Peter Bauman or David Binder at (818) 473-5720 or email your request to cabusinesslawreport@tharpe-howell.com.

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