

TIME AND GEOGRAPHICAL RESTRICTIONS IN NON-COMPETITION AGREEMENTS

The determination of whether a non-competition agreement is enforceable is not mathematical. All facts and circumstances surrounding the former employment relationship must be considered. Courts often first look to the reasonableness of a covenant's time and geographical restrictions. In fact, some courts have held that covenants with unlimited time and/or geographical limitations are presumptively invalid for public policy reasons. Below are examples of how some courts have treated various time and geographical limitations.

Courts found the **time** restriction **reasonable** in the following cases:

- ◆ A one-year, six-state restriction on a former salesperson of public transportation insurance, where the six-state region had been the former employee's sales territory.
- ◆ A two-year, state-wide agreement barring a former employee from selling medical equipment where his former employer provided medical equipment to entities throughout the state.
- ◆ A one-year agreement not to compete within 100 miles of a former employer where the employer was a radio/television station and the former employee was a radio/television personality.

Courts found the **time** restriction **unreasonable** in the following cases:

- ◆ A two-year agreement prohibiting a former commercial janitorial employee from working with any other commercial janitorial employers where former employee only spent seven months with former employer.
- ◆ A one-year agreement for an unlimited area restricting a former transportation insurance salesperson from selling transportation insurance.
- ◆ An agreement barring a former private investigation firm employee from soliciting business from former clients of private investigation firm for an unlimited time period.

Courts found the **geographical** restriction **reasonable** in the following cases:

- ◆ A computer industry employer's agreement barring a former employee from obtaining similar work within the 75-mile area of the former employer's location because of the competitive nature of the computer industry and the former employer's large client base within that area.
- ◆ A two-year covenant barring a former employee from engaging in any business within a 50-mile radius of Akron, Ohio that competes with former employer.

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- ◆ An agreement restricting a former salesperson from competing in same sales territory consisting of one state and parts of two others.

Courts found the **geographical** restriction **unreasonable** in the following cases:

- ◆ An agreement not to compete within a 200-mile radius of Cleveland, where it was shown that the former employer's business was generally within 60-miles of Cleveland.
- ◆ An agreement not to compete within 30 miles of Kinsman, Ohio, where the former employee was a physician and where it was shown that none of the physicians in the many large towns within the 30 miles surrounding Kinsman competed with those in Kinsman.
- ◆ An agreement barring a former private investigation firm employee from soliciting business from former clients of private investigation firm for an unlimited time period in an unlimited area.

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