

Non-Compete Agreements: What is a Reasonable Geographic Area of Coverage for a Restriction?



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What is a reasonable geographic area of coverage for a non-compete agreement restriction? It depends. The first question to ask is *when was this non-compete agreement signed?*

In Arkansas, the watershed date is July 22, 2015, which is when a landmark non-compete statute came into play.

For non-competes signed after July 21, 2015, there is no presumed reasonable geographic area. But the statute also provides guidance that the lack of a specific geographic restriction does not make a non-compete overly broad if: (1) the non-compete is limited with respect to time and scope, and (2) it is not greater than necessary to defend the protectable business interest of the employer. Beyond that statutory guidance, lawyers will look to case law to determine what is reasonable under the facts of a particular situation.

For non-competes signed on or before July 21, 2015, courts generally try to determine what is “reasonably necessary” to protect the employer’s interests. Non-competes have been found to be too geographically broad where the restrictions exceed the area in which the employer was actually engaged in business. Here again, case law gives this general definition meaning.

Arriving at a decision on whether an agreement can be enforced is not as simple as running down a standard checklist. On either side of this issue, certain facts can alter the general rules outlined above. We frequently find ourselves arguing for judicial enforcement of non-competes, but just as often we also assist companies seeking to defeat enforcement of a competitor’s non-compete. Often, the specifics of the past cases can make or break these arguments. At bottom, it is wise to seek an opinion from an experienced employment lawyer when trying to determine whether a non-compete is enforceable.

This article is part of the Mitchell Williams Non-Compete Agreement series explaining how non-compete agreements are interpreted and enforced. The series will be published weekly for a total of 7 articles.

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