

Are Customer/Client Lists Protectable Trade Secrets?



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Are customer/client lists protectable trade secrets in Arkansas? It depends. Answering this question involves looking closely at the facts and circumstances of each situation. There is some case law examining the legal treatment of customer/client lists, and we will expand this answer below to draw from that case law. However, first a cautionary note. Normally we do not come across a situation where the answer to this question is cut-and-dry. More frequently, the answer to this commonly asked question is in the gray zone, and we find that reasonable minds (and competing theories of competing lawyers) can characterize the facts differently. As a result, answering this question definitively is often pursued through litigation. However, consulting an experienced employment lawyer on the front end can often result in a significant reduction of the risk that customer/client lists will become the subject of later litigation.

In general, courts in Arkansas are reluctant to classify information as protectable trade secrets when the information is readily accessible through public records such as phone directories or customer profiles. Courts have been more likely to find that such lists are protectable when they contain information above and beyond the basics, such as in one case involving lists that contain information about dates of contract expirations. Often a key fact in answering this question involves examining what reasonable efforts an employer or trade secret owner took to protect the information that they later argue is a protectable trade secret. In a future installment of this blog series, we will examine that issue.