

# HOUSTON BUSINESS JOURNAL

## Companies adjust strategies to changing world

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Many Houston corporations are going global with their work force. From India and China, to the Middle East, with bordering neighbors and beyond, they are setting up shop and expanding operations across the globe.

Q -- What recent court decisions about non-compete agreements do employers need to understand?

CHRIS HANSLIK SHAREHOLDER, LITIGATION GROUP BOYAR & MILLER - Non-compete agreements must fit precisely within specific exceptions to antitrust laws as well as comply with Texas laws. Recent Texas Supreme Court decisions focus on the basic relationship between the parties, and the reasonableness of the non-compete provisions.

- The relationship. Under Texas law, a non-compete agreement must be part of a larger exchange of consideration between the company and employee -- the employer and the employee must make promises to each other to form an enforceable agreement. The big issue today is what constitutes a sufficient promise on the part of the employer.

For example, an employer can guarantee a minimum period of employment and compensation or promise to train the employee. In return, the employee might promise not to misuse the company's information or trade secrets. Under current law, the safest course of action is to either guarantee a minimum term of employment or include other very specific promises from the employer.

- Reasonableness. The agreement must be reasonable as to time, territory and type of activities. It must also not burden the employee more than necessary to protect the company. To comply, employers should avoid agreements that overreach and tailor clauses to particular needs. For example, a business operating only in Houston does not need to prevent the employee from working anywhere in Texas.