

The Inevitable Disclosure Doctrine In Employment Litigation: Two Perspectives

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Imagine this scenario: A Chief Marketing Officer develops a strategic marketing plan for employer X then resigns to join a direct competitor Y in the same role where she is responsible for developing company Y's strategic marketing plan. How can she do so without, even inadvertently, drawing on the information that she learned at her prior employer?

Ordinarily, a noncompete agreement would be the appropriate tool to restrain such post-employment activities. However, in some jurisdictions, even without a noncompete, courts are willing to provide similar relief through application of the "inevitable disclosure doctrine" (the "IDD").

Attorneys Josh Davis and Andrew O'Connor share key considerations against adopting the IDD in this Point/Counterpoint piece for the Boston Bar Journal.

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