



PAUL, PLEVIN,
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**CALIFORNIA COURT REJECTS THE INEVITABLE
DISCLOSURE DOCTRINE
(September 16, 2002)**

Summary:

Because California law generally does not enforce non-compete agreements, employers have tried to prevent former employees from working for competitors by arguing that such employment would cause the employee to "inevitably disclose" trade secrets. Last Thursday, a California appellate court soundly rejected this "inevitable disclosure doctrine." However, notably, the court expressly acknowledged that employers have other means available for protecting trade secrets.

Details:

Schlage Lock Company used the inevitable disclosure doctrine to seek an injunction preventing its former vice president of sales from working in a similar position for a competitor. In denying the injunction, the appellate court rejected the inevitable disclosure doctrine, reasoning that it runs against California's strong public policy of favoring employee mobility. The court further stated that the doctrine unfairly alters the employment relationship because it binds the employee by a court-imposed contract not to compete with no opportunity to negotiate terms. The court also pointed out that the doctrine of inevitable disclosure is not needed because California law protects trade secrets by allowing agreements that prohibit the solicitation of the former employer's customers.

What this means:

On one hand, this is bad news for companies who had hoped to use the doctrine of inevitable disclosure to prevent key employees from competing. On the other hand, the court clarified that employers *can* take some significant steps to preserve the confidentiality of trade secrets. These steps include:

- Carefully maintaining the secrecy of any trade secret information and not commingling it with non-secret information.
- Requiring employees to sign confidentiality agreements.

- o Entering into well-designed agreements that prohibit the solicitation of customers and employees. Such agreements must be "narrowly drafted for the purpose of protecting trade secrets."

In light of this decision, employers should evaluate their employment agreements to ensure that the agreements include properly written clauses that provide them the best possible protection against any use or disclosure of trade secrets.

This E-Update was authored by [Corry Watrous](#). If you have any questions about this E-Update, please contact the author or any PPS&C attorney.

This E-Update is offered as general information to our clients and friends. The Update is not intended as legal advice applicable to any specific situation and should not be taken as such.

SAVE THE DATE! SAVE THE DATE! SAVE THE DATE!

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2003 ANNUAL WORKPLACE LAW SEMINAR

Wrongful termination – Discrimination – Reasonable
Accommodation

Whistleblowing – Leaves of Absence – New Privacy Guidelines

Trade Secrets – 9/11 Impact on Business Immigration Laws

Sexual Misconduct – Religious Harassment – Arbitration

**If any of these challenges surface, are you ready
to handle them?**

Come join us for an interactive workshop that will focus on how new laws, initiatives and court decisions will impact your company's day-to-day employment practices and what you need to do to get ready for 2003.

Events of the past 12 months have changed the way we live and work in America. This seminar was specifically designed to assist general counsel, human resources executives, risk managers, and executive officers with oversight responsibilities for human resources in dealing with changes in employment laws and practices. Our firm's employment law experts will arm you with practical advice and strategies for understanding and managing your employees.

We will also present a Special Report on immigration laws in the post

9/11 world. Peter Larrabee, a nationally known San Diego immigration attorney, with over 23 years of experience, will discuss the fallout and future of immigration law in the workplace and the 5 things employers need to know now to be ready for 2003.

As always, we will also give you the floor to ask questions of our employment law experts.

WHEN: November 7, 2002, 8:30 a.m. - 12:00 Noon

WHERE: Del Mar Marriott
11966 El Camino Real
Del Mar, CA 92130

Registration and Continental Breakfast: 8:00 a.m. - 8:30 a.m.

REGISTER: You may register [online](#) or by phone at (619) 237-5200. Advance registration is strongly suggested.

COST: \$125.00 includes breakfast, seminar materials and parking and can be paid in advance or at the door.

Send comments to info@paulplevin.com. Last modified 9/16/2002