

Q Are non-compete agreements enforceable in New Hampshire?

A Traditional non-compete agreements appear to have been relegated to the scrap heap. In a recent ruling, the NH Supreme Court limited employers' ability to restrict competition by former employees. In *Merrimack Valley Wood Products v. Near* (May 9, 2005), the Court held that in most circumstances employers could not prevent employees from competing after they leave the company. But, the Court reinforced that the employer could prevent the former employee from soliciting customers with whom that employee had contact and influence during his period of employment. The Court also found that the company acted in bad faith by, among other things, trying to restrict the former employee from competing for *any* customers and waiting months after the employee was hired before requiring that he sign the agreement. In light of this and other decisions, employers are cautioned to execute a well-devised plan to protect their legitimate business interests, a part of which can include limited restrictions on former employees.



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