



## SENIC Battlecards Competition Recruiting Your Employees?

**An employee is leaving** you to join the competition. Do you know the right steps to limit your risks when it comes to employee raiding?

When an employee hands you his letter of resignation, what should you do?

When employees leave, there are several things you should keep in mind to enhance your evolving company's ability to protect itself from improper competition from the departing employee.

**Exit Interview.** You should try to conduct an exit interview. While an employee has no legal obligation to answer any questions, many employees feel bad about what they are doing. It is precisely at that time that they are most likely to provide you with information that you need to know.

You should also take advantage of the exit interview to remind the employee that he signed a non-compete agreement. If it is handy, you should provide him with a copy of the non-compete agreement he signed. If it is not readily accessible, you should send a copy of the non-compete agreement to his home address. Some companies send a copy to the new employer.

**Act Quickly.** It is crucial to act quickly. If you want a court to issue an injunction against the employee enforcing his non-compete, you must show the court that your company will be "irreparably injured" if the court does not issue an injunction immediately.

If you sit on your hands for several weeks before acting, a court is less likely to believe that the matter is urgent and may not issue an injunction.

**Prevent Counterclaims.** A common strategy used by an ex-employee in defending against a non-compete lawsuit is to file a counterclaim against his former employer. It is important to protect your company against such counterclaims. It is therefore critical not to give the ex-employee any grounds for complaint after his departure.

The ex-employee should not be bad-mouthed to the customers. Nor should he be accused of taking property from your company unless you have solid evidence that he did so. Employees joining competitors is a reality in today's business environment.

It is never a good thing when an employee jumps ship. However, if properly managed, an employee's departure should not be anything more than a speed bump for your evolving business.



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