

## WHERE THE LAW THAT WE WILL DISCUSS COMES FROM

1. US has Federal and State Laws.
2. Federal—Matters of importance to the country as a whole.  
Discrimination, Antitrust, Patents and Copyrights.
3. State—Matters Which Each State Should Control as Sovereign.  
General Employment Matters, Business Formations.
4. Sometimes a State Can Regulate a Matter Already Regulated by the Federal Government.  
Discrimination and antitrust matters are regulated by state and federal laws.
5. We Deal Here With State Law (Wisconsin).
6. Each State Has Its Own Legislative and Court-Made Laws.
7. A State Only Has Jurisdiction Over a Person who Has Sufficient Contacts with that State.
  - a. Through residence or principal place of business.
  - b. Through general contacts with the state—“doing business”
  - c. Through other contacts specific to the matter at issue.
8. The Rule of Law Comes from the Constitution, the Legislature and the Courts.
9. The Legislature.  
The Legislature enacts statutes—formal laws.
10. The Courts.  
The Courts review the statutes enacted by the Legislature:
  - a. Decide whether a statute is valid and constitutional; and
  - b. Interpret the statute’s wording, meaning, and application to particular facts.  
The Courts also create and develop legal doctrines known as the Common Law.  
The Common Law is
  - a. Developed over time.

- b. Based on Precedent—past court decisions.
  - c. Based on the decisions of the highest court—
    - The state trial court and court of appeals must follow the decisions of the state supreme court.
    - For matters covered by federal law, a state court, federal district court and federal court of appeal must follow the decisions of the US Supreme Court.
11. Here We Deal With Both Statutory and Common Law.
- Statute—Wisconsin corporation, limited liability, partnership statutes;  
Uniform Trade Secrets Act.
- Common Law—contract law, misappropriation law, interference law, fiduciary duty law.

**DISCRIMINATION  
WHAT AN EMPLOYER CAN AND CANNOT DO**

- A. DISCRIMINATION GENERALLY
- 1. What Is Illegal Discrimination?  
Treating people differently based on a protected characteristic.
  - 2. Types of Prohibited Discrimination:
    - a. Race, Color
    - b. Sex (including pregnancy)
    - c. Age (40 or older)
    - d. Religion
    - e. National Origin

In Wisconsin:

    - a. Sexual Orientation
    - b. Arrest or Conviction Record
    - c. Marital Status (but employer may prohibit spouses from supervising each other)
    - d. Pregnancy, Childbirth, Maternity Leave
    - e. Use or Nonuse of Legal Products During Off-Hours
  - 3. Can Not Discriminate in Terms or Conditions of Employment
    - a. Hiring
    - b. Firing
    - c. Promotion
    - d. Demotion

- e. Seniority
- f. Wages
- g. Retirement Benefits
- h. Constructive Discharge

4. Can Not Retaliate Against One for Exercising Rights Against Discrimination.
  5. What Does Employee Have to Prove?
    - a. Member of protected class
    - b. Qualified for job, duties
    - c. Employer took adverse action
    - d. Adverse action was because of employee's membership in protected class
      1. Does not have to be the only reason
  6. How to Prove?
    - a. Statistics (where practice appears nondiscriminatory, but really is discriminatory)—where challenged practice has a discriminatory effect
    - b. Different Treatment
      1. Employer's reason was a pretext
  7. Employer Defenses
    - a. Bona Fide Occupational Qualification
 

Qualification which is reasonably necessary to the business operations

      1. Hazardous employment
 

Age (pilots, firefighters, police, school bus drivers), sex (pregnancy)
      2. Substantial Relationship between conviction (not arrest) and duties (positions involving money; security related business); background check ok for certain caregivers (nursing home, hospitals, day care centers)
  8. Remedies
    - a. Back Pay
    - b. Front Pay/Injunction to Retain Job
    - c. Punitive Damages (Limited)
    - d. Attorneys Fees
- B. Disability Discrimination
1. Disability:
    - a. physical impairment substantially limiting a major life activity
    - b. a record of such impairment
    - c. a perception of such impairment

2. Exclusions from disability:
  - a. use of illegal drugs (but rehabilitated individuals are covered)
  - b. sexuality (homosexuality, etc)
  - c. compulsive gambling
  - d. kleptomania
  - e. alcoholism may be a disability, but employer can prohibit drinking on the job or at employer's location
  
3. Employee must prove that employer failed to reasonably accommodate employee. Reasonable accommodations include:
  - a. Job restructuring
  - b. change or limiting of work schedules
  - c. using equipment or devices
  - d. assignment to vacant position
  
4. Employer defenses:
  - a. There is no reasonable accommodation
  - b. Even with reasonable accommodation, employee would not be able to perform job duties
  - c. Reasonable accommodation would be a hardship to employer
  - d. The disability is reasonably related to the employee's ability to adequately do his duties (does not have to be able to do all duties)
  - e. The employee's performance of duties as disabled would be a hazard to the employee, his co-workers or the public

C. Sexual Harassment/Hostile Work Environment

1. A Type of Sex Discrimination
  - a. Conduct directed at a person of the same or another sex
  - b. Unwelcome verbal or physical conduct of a sexual nature
  
2. Quid Pro Quo  
Automatically Illegal
  
3. Hostile Work Environment  
Unwelcome verbal or physical conduct of a sexual nature which is sufficiently pervasive to interfere with work performance, or to create intimidating, hostile or offensive work environment
  - a. Objective standard—what a reasonable person would do/feel
  - b. Factors:
    1. nature of the unwelcome words or acts
    2. their frequency
    3. total length of time of the harassment
    4. context in which the harassment occurred

c. Employee must report harassment, unless, for example, employer does not have a reporting procedure or she is to report to the harasser

d. Co-employees v. Supervisors

1. Re co-employees, employer liable for co-employee action

2. Re supervisors, employer is liable only where

a. tangible employment action is taken

b. employer did not exercise reasonable care to prevent or correct promptly such behavior and

c. employee failed to take advantage of employer's help (i.e. through policies) or to avoid harm otherwise

D. Can Employer Ask of a Potential or Actual Employee:

1. Do you plan on having children? (N)

2. Have you been arrested? (No, except for a charge that is still pending or employment depends on getting a bond)

3. Have you been convicted of a crime? (N)

4. Do you have a disability? (N) How severe is it? (N)

5. Will you take a medical exam? (Not until conditional offer made, and only if all other new employees have to and results confidential; for current employees, must be job related) Will you pay for it? (No)

6. Will you take a lie detector test? (Not unless (a) an activity is being investigated, the employer has reasonable suspicion that the employee is involved, and the employer gives a written statement detailing this before the test; (b) employee works for, for example, a security firm or a drug manufacturer)

7. Will you take a breathalyzer test? (OK, but be careful of disability discrimination re alcoholism; required for some industries, i.e. truck drivers)

8. Will you go out on a date with me?

E. How To Protect an Employer

1. Anti-discrimination policy

a. person to complain to

b. if supervisor is actor, an independent person to complain to

- c. investigative procedures
  - d. consistency
2. Follow the procedures
  3. If adverse action is taken against employee, have a paper trail.

### **MISAPPROPRIATION OF TRADE SECRETS**

1. There is No Federal Trade Secrets Law.
2. Trade Secret Law is Governed by the States.

Most states have adopted a similar version of the Uniform Trade Secrets Act. Wisconsin's version is located at Section 134.90 of the Wisconsin Statutes.

3. Trade Secret.

"Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique or process which

- a. obtains independent economic value, actual or potential, from not being generally known to, and not being readily obtainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- b. is the subject of efforts, reasonable under the circumstances, to maintain its secrecy.

"Improper means" includes espionage, theft, bribery, misrepresentation and breach or inducement of a breach of a duty to maintain secrecy.

4. Whether a Trade secret Exists is Determined From All the Facts.

Factors to be considered include

- a. the extent to which the information is known outside of the employer;
- b. the extent to which it is known by employees and others involved in the employer's business;
- c. the extent of measures taken to guard the secrecy of the information;
- d. the value of the information to the employer's business and to the employer's competitors;
- e. the amount of effort or money spent by the employer in developing the information; and

- f. the ease or difficulty with which the information could be properly acquired or duplicated by others.
5. Customer Lists.

A customer list is not a trade secret just because it is a list of customers. Such a rule would be against public policy, including the policy against restraints of trade. Customer lists are usually not protected as trade secrets. Customer lists are usually protected only in exceptional cases, but each case must be decided on its own facts.

6. Misappropriation.

A person misappropriates a trade secret if he does any of the following:

- a. acquires a trade secret of another by means which he knows or has reason to know are improper means; or,
- b. discloses or uses a secret of another, without express or implied consent, if he does so through any of the following:
  - 1. derives it from or through a person who used improper means to acquire it;
  - 2. acquires it under circumstances giving rise to a duty to maintain its secrecy or limit its use;
  - 3. derives it from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or,
  - 4. acquires it by accident or mistake.

If a person obtains a trade secret by proper means, he does not violate the law.

7. Remedies.

a. Injunctive relief.

b. Damages—Actual loss--

The amount by which the violator is unjustly enriched if that amount is not included in actual loss. This includes the net lost profits (after expenses) caused by the misappropriation.

c. Punitive Damages, if a violation is willful and malicious.

Punitive damages are intended to punish a wrongdoer or deter the wrongdoer and others from engaging in similar conduct in the future. They are not required. Factors to be considered in determining whether punitive damages are appropriate include:

- 1. the grievousness of the acts;
- 2. the degree of malice involved;

3. the potential damage which might have been done, as well as the damage which was done; and
4. the actor's ability to pay.

d. Reasonable actual attorneys fees and costs, if violation is in bad faith or is willful and deliberate.

8. Preemption.

This law displaces other state conflicting laws regarding trade secrets. It does not displace

- a. remedies in contract;
- b. civil remedies which are not based on trade secret misappropriation; and
- c. criminal remedies, whether or not based on trade secret misappropriation.

УСТАВ

ИЗ

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(Название)

1. Дата встречи ежегодных акционеров.

(ЧАС) (НЕДЕЛЯ) (ДЕНЬ) (МЕСЯЦ) (ПЕРВЫЙ ГОД)

\_\_\_\_\_

2. Уведомление о встрече акционера: не меньше чем \_\_ дни.

3. Число директоров: не меньше чем \_\_.

4. Число Вице-президентов: \_\_.

\_\_\_\_\_  
(Название)

## МИНУТЫ ВСТРЕЧИ УЧРЕДИТЕЛЯ КОРПОРАЦИИ

\_\_\_\_\_  
(Дата)

За встречу учредителя корпорации \_\_\_\_\_ (Компания) держались  
\_\_\_\_\_ (Дата) в \_\_\_\_\_ (Время).

Учредитель корпорации, \_\_\_\_\_, заявил, что он будет действовать как  
Председатель встречи. Он определял \_\_\_\_\_, кто присутствовал,  
действовать как Секретарь.

Председатель заявил, что оригинальное Свидетельство о регистрации корпорации  
было подано с Висконсинским Госсекретарем.

Председатель тогда обсуждал акцию корпорации. Движение было должным  
образом сделано и одобрило принятие следующих решений:

РЕШЕННЫЕ ИТ, которые подписчики запаса этой корпорации должны согласовать  
следующим образом:

“Я подписался за доли \_\_\_\_\_ запаса \_\_\_\_\_, Висконсинской  
корпорации, и соглашаюсь заплатить \$ \_\_\_\_\_ за запас.”

Там не будучи никаким дальнейшим бизнесом, встреча была должным образом  
отложена.

\_\_\_\_\_  
Секретарь

ОДОБРЕННЫЙ УЧРЕДИТЕЛЕМ КОРПОРАЦИИ:

\_\_\_\_\_  
Учредитель корпорации

\_\_\_\_\_  
(Название)

МИНУТЫ ПЕРВОЙ ВСТРЕЧИ  
АКЦИОНЕРЫ

\_\_\_\_\_  
(Дата)

За первую встречу акционеров \_\_\_\_\_ (Название) держались  
\_\_\_\_\_ (Дата) в \_\_\_\_\_ (Время).

\_\_\_\_\_ действовавший, поскольку Председатель, и \_\_\_\_\_  
действовали как Секретарь.

Председатель представил предложенный устав. После того, как они были прочитаны, движение было должным образом сделано и единодушно одобрило принятие следующего решения:

РЕШЕННЫЕ ИТ, что устав, представленный быть принятыми как устав корпорации.

Следующий заказ бизнеса был выборами директоров. Движение было должным образом сделано и единодушно одобрило принятие следующего решения:

РЕШЕННЫЕ ИТ, что следующее, быть, и они тем самым, избраны как директора этой корпорации, чтобы занять пост до следующего годового собрания и пока их преемники избраны и готовились:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Движение было должным образом сделано и единодушно одобрило принятие следующих решений:

РЕШЕННЫЕ ИТ, что все действия организаторов одобрены во всех отношениях.

РЕШЕННЫЙ ДАЛЕЕ, что Казначей уполномочен заплатить все расходы, понесенные в организации корпорации.

Там не будучи никаким дальнейшим бизнесом, встреча была должным образом отложена.

\_\_\_\_\_  
Секретарь

ОДОБРЕННЫЙ АКЦИОНЕРОМ:

\_\_\_\_\_

\_\_\_\_\_  
(Название)

### МИНУТЫ ПЕРВОЙ ВСТРЕЧИ СОВЕТА ДИРЕКТОРОВ

\_\_\_\_\_  
(Дата)

За первую встречу Совета директоров \_\_\_\_\_ (Название) держались  
\_\_\_\_\_ (Дата) в \_\_\_\_\_ (Время). Все Директора присутствовали.

\_\_\_\_\_ действовавший как Председатель. \_\_\_\_\_ действовал как  
Секретарь.

Председатель заявил, что первый заказ бизнеса будет выборами чиновников.  
Движение было должным образом сделано и единодушно одобрило принятие  
следующего решения:

РЕШЕННЫЙ, которым следующее, быть избран офицерами этой корпорации,  
чтобы занять пост в течение текущего года и до их преемников избрано:

Президент \_\_\_\_\_

Вице-президент \_\_\_\_\_

Секретарь \_\_\_\_\_

Казначей \_\_\_\_\_

\_\_\_\_\_ поскольку президент корпорации, продолженной, чтобы  
осуществлять контроль над встречей, и \_\_\_\_\_ как Секретарь, продолжал  
делать запись минут этого.

Президент представил книгу свидетельства запаса и копию свидетельств запаса. Движение было должным образом сделано и одобрило принятие следующего решения:

РЕШЕННЫЙ, что форма свидетельства запаса одобрена.

Движение было тогда должным образом сделано и единодушно одобрило принятие следующих решений:

РЕШЕННЫЙ, что покупатели запаса корпорации должны заплатить покупную цену; и

РЕШЕННЫЙ ДАЛЕЕ, что после получения оплаты, корпорация должна выпустить свидетельства запаса покупателям.

Президент тогда обсуждал потребность в банковских услугах. Движение было должным образом сделано и единодушно одобрило принятие следующего решения:

РЕШЕННЫЙ, это \_\_\_\_\_ должен быть банком этой корпорации, и чиновники должны подписать необходимые документы, чтобы открыть счет в банке.

Там не будучи никаким дальнейшим бизнесом, встреча была должным образом отложена.

\_\_\_\_\_  
Секретарь

ОДОБРЕННЫЙ ДИРЕКТОРАМИ:

\_\_\_\_\_

\_\_\_\_\_

BY-LAWS

OF

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(Name)

1. Date of annual shareholders' meeting.

(HOUR) (WEEK) (DAY) (MONTH) (FIRST YEAR)

2. Notice of shareholder's meeting: not less than 10 days.

3. Number of directors: not less than one.

4. Number of Vice-Presidents: One.

\_\_\_\_\_  
(Name)

MINUTES OF MEETING OF THE INCORPORATOR

\_\_\_\_\_  
(Date)

The meeting of the incorporator of \_\_\_\_\_ (Company) was held on \_\_\_\_\_ (Date) at \_\_\_\_\_ (Time).

The incorporator, \_\_\_\_\_, stated that he would act as the Chairman of the meeting. He designated \_\_\_\_\_, who was present, to act as Secretary.

The Chairman stated that the original Articles of Incorporation had been filed with the Wisconsin Secretary of State.

The Chairman then discussed the stock of the corporation. Motion was duly made and approved adopting the following resolutions:

BE IT RESOLVED, that subscribers of the stock of this corporation shall agree as follows:

“I subscribe for \_\_\_\_\_ shares of stock of \_\_\_\_\_, a Wisconsin corporation, and agree to pay \$\_\_\_\_\_ for the stock.”

There being no further business, the meeting was duly adjourned.

\_\_\_\_\_  
Secretary

APPROVED BY INCORPORATOR:

\_\_\_\_\_  
Incorporator

\_\_\_\_\_  
(Name)

MINUTES OF THE FIRST MEETING OF  
THE STOCKHOLDERS

\_\_\_\_\_  
(Date)

The first meeting of the stockholders of \_\_\_\_\_ (Name) was held on  
\_\_\_\_\_ (Date) at \_\_\_\_\_ (Time).

\_\_\_\_\_ acted as Chairman, and \_\_\_\_\_ acted as Secretary.

The Chairman presented proposed by-laws. After they were read, the motion was duly made and unanimously approved adopting the following resolution:

BE IT RESOLVED, that the by-laws presented be adopted as the by-laws of the corporation.

The next order of business was the election of directors. Motion was duly made and unanimously approved adopting the following resolution:

BE IT RESOLVED, that the following be, and they hereby are, elected as directors of this corporation to hold office until the next annual meeting and until their successors are elected and have qualified:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The motion was duly made and unanimously approved adopting the following resolutions:

BE IT RESOLVED, that all acts of the organizers are approved in all respects.

RESOLVED FURTHER, that the Treasurer is authorized to pay all expenses incurred in the organization of the corporation.

There being no further business, the meeting was duly adjourned.

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Secretary

APPROVED BY STOCKHOLDER:

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\_\_\_\_\_  
(Name)

MINUTES OF THE FIRST MEETING OF THE BOARD OF DIRECTORS

\_\_\_\_\_  
(Date)

The first meeting of the Board of Directors of \_\_\_\_\_ (Name) was held on \_\_\_\_\_ (Date) at \_\_\_\_\_ (Time). All of the Directors were present.

\_\_\_\_\_ acted as Chairman. \_\_\_\_\_ acted as Secretary.

The Chairman stated that the first order of business would be the election of officers. Motion was duly made and unanimously approved adopting the following resolution:

RESOLVED, that the following be elected the officers of this corporation to hold office for the current year and until their successors are elected:

President	_____
Vice President	_____
Secretary	_____
Treasurer	_____

\_\_\_\_\_ as President of the corporation, continued to preside over the meeting, and \_\_\_\_\_ as Secretary, continued to record the minutes thereof.

The President presented a stock certificate book and copy of the stock certificates. Motion was duly made and approved adopting the following resolution:

RESOLVED, that the form of the stock certificate is approved.

Motion was then duly made and unanimously approved adopting the following resolutions:

RESOLVED, that purchasers of stock of the corporation shall pay the purchase price; and

RESOLVED FURTHER, that upon receiving payment, the corporation shall issue stock certificates to the purchasers.

The President then discussed the need for banking facilities. Motion was duly made and unanimously approved adopting the following resolution:

RESOLVED, that \_\_\_\_\_ shall be the bank for this corporation, and the officers shall sign the necessary documents to open the bank account.

There being no further business, the meeting was duly adjourned.

\_\_\_\_\_  
Secretary

APPROVED BY DIRECTORS:

\_\_\_\_\_  
\_\_\_\_\_

**ACTS INVOLVING CONFIDENTIAL INFORMATION  
WHICH IS NOT A TRADE SECRET**

1. If Information Is Confidential, But Is Not a Trade Secret Under the Statute, There May Still Be Remedies For Its Misappropriation or Wrongful Use.
2. Wisconsin Allows a Claim for Misappropriation of Confidential Information that Is Not a Trade Secret as Defined in the Statute.

This is a new development. It is unclear what would fall into this category. But it will likely become a good tool for employers to use.

3. Conversion.

A person commits a conversion when he

- a. intentionally controls or takes the property of another;
- b. acts without the owner's consent or without lawful authority; and
- c. acts so as to seriously interfere with the owner's right to possess the property.

Conversion does not require a bad motive. It requires only that the person intended to act towards the property in a way which would seriously interfere with the owner's possession.

One cannot convert ideas.

4. Interference.

Illegal interference is conduct or words under which one tries to influence another to not deal with another. It could be a simple request or persuasion, exerting only moral pressure, or threats or promises of some benefit to the other.

Illegal interference does not require ill will or a malicious intent. It requires that the person act with the intent to interfere, or in such a way that the person knew or should have known that his conduct was certain or substantially certain to cause interference.

A person's conduct is not illegal interference if he is justified. This is determined by all the facts, including the following factors:

- a. the nature, type, duration, and timing of the conduct;
- b. whether the person had an improper motive;
- c. whether the person was motivated by self-interest as opposed to the public interest;
- d. the type of interest allegedly interfered with;
- e. society's interest in protecting the person's freedom of action and the other person's contractual and business relationships;
- f. how close the conduct was to the alleged interference; and
- g. whether the conduct, even if intentional, was fair and reasonable under the circumstances, including ethical business codes and established customer practices.

5. Interference With Existing Contract.

The law protects legitimate competition from predatory tactics by subjecting anyone who wrongfully interferes with contractual relations to liability.

A defendant is liable if, without justification to do so, he intentionally induces or otherwise purposely causes a third person not to (a) perform a contract with another; or (b) continue a business relationship with another.

6. Interference With Prospective Contract.

The law also protects a person from intentional interference with a prospective contract or business relationship.

A defendant is liable if, without justification to do so, he intentionally induces or otherwise purposely (a) causes a third person not to enter into or continue a contract or business relationship; or (b) prevents the other from acquiring or continuing a prospective contract or business relationship.

7. Intentional Interference With a Person's Performance of His Contract With Another.

The law also recognizes a cause of action against one who, without justification to do so, intentionally interferes with another's performance of a contract. The interference must either prevent the performance of the contract or cause the other's performance to be more expensive and burdensome.

8. Damages for Illegal Interference.

One injured by illegal interference can recover those damages proximately caused by the defendant's conduct, including lost profits.

If one who, in illegally interfering, acts maliciously toward or in an intentional disregard of the rights of the other, the harmed party may recover punitive damages in addition to compensatory damages.

**EXERCISE #2**  
**ОСУЩЕСТВЛЕНИЕ #2**

**MISAPPROPRIATION**  
**НЕЗАКОННОЕ ПРИСВОЕНИЕ**

1. Company A sells metal pieces to manufacturers. Most companies require buyers to buy a minimum amount of metal. Company A does not. Company A buys most of its metal from wholesalers, which are required to buy a minimum amount of metal from their sellers, and which extra pieces.

Компания А продает металлические части изготовителям. Большинство требований компаний, что покупатели купили минимальное количество металла. Компания А не делает. Компания А покупает большинство ее металла от оптовых дилеров, которые обязаны купить минимальное количество металла от их продавцов и иметь слишком много частей.

2. David was employed by Company A for 14 years. He was Company A's Director of Operations. He resigned from Company A on July 13, 2007.

Дэвид предоставляла работу Компания А в течение 14 лет. Он был Компанией Директор Аа Операций. Он ушел из Компании А 13 июля 2007.

3. Michael was employed by Company A for 10 years. He was Company A's Sales Manager. Company A fired Michael on July 12, 2007.

Майкл был нанят Компанией А в течение 10 лет. Он был Компанией Коммерческий директор А. Компания уволенный Майкл 12 июля 2001.

4. David and Michael did not have any written contracts with Company A.  
Дэвид и Майкл не имели никаких письменных контрактов с Компанией А.
5. David and Michael worked full time for Company A while employed there.  
Дэвид и Майкл работали полный рабочий день для Компании А в то время как используется там.
6. David and Michael knew each other since they were children. They often talked about opening their own business together.  
Дэвид и Майкл знали друг друга, так как они были детьми. Они часто говорили об открытии их собственного бизнеса вместе.
7. David had been Company A's first employee. Company A's owner had promised David over the years that he would become an owner of Company A.  
Дэвидом была Компания первый служащий Аа. Владелец Аа Компании обещал Дэвиду много лет, что это становится владельцем Компании А.
8. David attended a March, 2007 meeting of Company A. The Company's owner also attended. There was a discussion about Company A's financial condition. The company needed money and its sales were declining.  
Дэвид посетил встречу марта 2007 Компании А. Владелец Компании также следил. Было обсуждение о Компании финансовое условие Аа. Компания нуждалась в деньгах, и его продажи уменьшались.
9. After the meeting, David decided to leave Company A and start his own company. He had dinner with Michael and told Michael about his plans. Michael decided to join David in the new company.  
После встречи, Дэвид решил оставить Компанию А и начать его собственную компанию. Он обедал с Майклом и сказал Майклу о его планах. Майкл решил присоединиться к Дэвиду в новой компании.
10. Company B was created in March, 2007. It is owned by David and Michael.  
Компания В была создана в марте 2007. Это принадлежит Дэвиду и Майклу.
11. While still employed by Company A, David organized Company B and opened a bank account. Michael reserved an internet site for the company. David and Michael developed a business plan for Company B, and obtained an investor.  
В то время как все еще - Компания А, к которой используют, Дэвид, организовывала Компанию В и открыла счет в банке. Майкл зарезервировал интернет-участки для для компании. Дэвид и Майкл развили бизнес-план для Компании В, и находят инвестора.
12. In April, 2007, Company B made payments to David and Michael.  
В апреле 2007, Компания В произвела платеж Дэвиду и Майклу.

QUESTION: Were these payments reimbursements to David and Michael for items for Company B, or were these payments wages to David and Michael for work at Company B?

ВОПРОС: эти выплаты были Дэвиду и Майклу для пунктов, которые они купили для Компании В, или эта заработная плата была Дэвиду и Майклу для работы над Компанией В?

13. David and Michael needed a computer program for Company B's sales and receipts. They were not computer programmers. So they hired two computer programmers who they knew. One computer programmer was a former employee of Company A.

Дэвид и Майкл хотели компьютерную программу для Компании продажи Ба и платежи. Они не были компьютерными программистами. Таким образом они предоставили работу двум компьютерным программистам, которых они знали. Один компьютерный программист был бывшим служащим Компании А.

14. In May, 2007, David met with the programmers at Company A after business hours. He did not meet with them at his home because he lived with his brother-in-law. His brother-in-law was an employee of Company A.

В мае 2007, Дэвид встретился с программистами в Компании А после рабочего времени. Он не встречался с ними в его доме, потому что он жил с его шурином. Его шурин был служащим Компании А.

15. David told the programmers what he wanted the computer program to be like. David gave the programmers some handwritten drawings. He did not give the programmers a copy of Company A's computer program.

Дэвид сказал программистам, на что он хотел компьютерную программу, чтобы походить. Дэвид дал программистам некоторые рукописные рисунки. Он не давал программистам копию Компании А компьютерная программа .

16. The computer programmers made a computer program for Company B in June, 2007.

Компьютерные программисты сделали компьютерную программу для Компании В в июне 2007.

17. The computer program of Company A was created from software which Company A bought at a computer store. Company A then changed the software to its own purposes.

Компьютерная программа Компании А была создана от программного обеспечения, которое Компания купила в компьютерном складе. Компания А тогда изменила программное обеспечение на его собственные цели.

Company A requires that its employees use passwords to enter the computer network. There is one password for all employees in one department. The passwords have not been changed for five years.

Компания А требует, чтобы ее служащие использовали пароли, чтобы войти в компьютерную сеть. Есть один пароль для всех служащих в одном отделе. Пароли не были изменены в течение пяти лет.

18. The computer programs of Company A and Company B were similar. Both gave price quotations, purchase orders, inventory information, shipping information and customers' buying histories. Each program includes the names, addresses and buying history of actual and potential customers.

Компьютерные программы Компании А и Компании В были подобны. Также дал ценовые котировки, распоряжения, информация о поставке, информация о платежах, и историях покупки клиентов. Каждая программа включает названия, адреса и историю закупки фактических и потенциальных клиентов.

19. Each program uses its own computer language, but the language can be translated. The program of Company A is a smaller program as the program of Company B. The program of Company B needs extra software to enter information. The program of Company A does not. The database from each computer program cannot be directly imported from one program into another.

Каждая программа использует ее собственный компьютерный язык, но язык может быть переведен. Программа Компании А - меньшая программа как программа Компании В. Программа Компании В нуждается в дополнительном программном обеспечении, чтобы войти в информацию. Программа Компании А не делает. База данных из каждой компьютерной программы не может быть непосредственно импортирована из одной программы в другой.

20. QUESTION: Was the computer program of Company B taken from the computer program of Company A? Was the computer program of Company A confidential?

ВОПРОС: компьютерная программа Имела Компанию В, взят из компьютерной программы Компании А? Компьютерная программа имела Компанию А конфиденциальное?

21. David and Michael spoke to two other employees of Company A about coming with them to Company B.

Дэвид и Майкл говорили с двумя другими служащими Компании А о становлении нанятым Компанией В.

22. QUESTION: Did these employees make their decision to do so on their own, or because of the actions of David and Michael?

ВОПРОС: эти служащие принимали их решение сделать так независимо, или из-за действия Дэвида и Майкла?

23. On July 9, 2001, Dale told Company A that he was leaving to start his own company. He agreed to stay on and interview replacements. He quit when Company A offended him. Company A fired Michael on July 13, 2007, after learning that he intended to go with Dale to Company B.

9-ого июля 2007, Дэвид сказал Компаниям А, что это leaved начинать его собственную компанию. Это согласилось остаться и взять интервью от замен. Это уезжает, когда Компания оскорбила это. Компания уволенный Майкл 13-ого июля 2007, после discovering, что это намеревалось пойти с Дэвидом к Компании В.

24. When David and Michael have left Company A, Company B had no products, and its computer system did not work. Company B signed a lease agreement, to begin August 1, 2007.

Когда Дэвид и Майкл оставили Компанию А, Компания В не имела никаких продуктов, и ее компьютерная система не работала. Компания В подписала соглашение арендного договора, начинаться 1-ого августа 2007.

25. QUESTIONS: Did David and Michael take the names, addresses and buying information of Company A customers when they left Company A? Or, was the information which David and Michael had learned from their own experiences at Company A and before? Is this information confidential or a trade secret?

ВОПРОСЫ: Дэвид и Майкл взяли названия, адреса и информацию закупки клиентов Компании, когда они оставили Компанию А? Или, была информация, которую Дэвид и Майкл узнали из их собственных событий в Компании А и прежде? Является ли это конфиденциальной информацией или "торговым секретом"?

26. Company B opened for business and made its first sale in September, 2007. Company B competes with Company A in the metal business Some of Company B's customers are customers of Company A. Some are not.

Компания В открытый для бизнеса и сделанный его первой продажей в сентябре 2007. Компания В конкурирует Компании А в металлическом бизнесе часть Компании. Некоторые клиенты Компании В - клиенты Компании А. Некоторые клиенты не.

27. Every employee of Company B has his own password to enter the computer system. Every password is changed once per year.

Каждый служащий Компании В имеет его собственный пароль, чтобы войти в компьютерную систему. Каждый пароль изменен однажды ежегодно.

**State of Wisconsin**

**LIMITED LIABILITY PARTNERSHIP REGISTRATION STATEMENT**  
ГОСУДАРСТВО ВИСКОНСИНА  
ОГРАНИЧЕННОЕ РЕГИСТРАЦИОННОЕ УТВЕРЖДЕНИЕ ТОВАРИЩЕСТВА  
ОТВЕТСТВЕННОСТИ

**1.** Name of the Partnership:  
НАЗВАНИЕ ТОВАРИЩЕСТВА

**2.** Mailing Address of its Principal Office:  
ПОЧТОВЫЙ АДРЕС ЕГО ОСНОВНОГО ОФИСА

**3.** This document was drafted by:  
ЭТОТ ДОКУМЕНТ БЫЛ ПРОЕКТИРОВАН

\_\_\_\_\_  
(Name the individual who drafted the document)  
НАЗОВИТЕ ЧЕЛОВЕКА, КОТОРЫЙ ПРОЕКТИРОВАЛ  
ДОКУМЕНТ

**4.** Name of registered agent:  
НАЗВАНИЕ ЗАРЕГИСТРИРОВАННОГО АГЕНТА

**5.** Street address of registered office:  
НАЗВАНИЕ ЗАРЕГИСТРИРОВАННОГО АГЕНТА

**6.** Confirm the following:  
ПОДТВЕРДИТЕ СЛЕДУЮЩЕЕ:

The partnership is formed under the laws of Wisconsin.  
ТОВАРИЩЕСТВО СФОРМИРОВАНО СОГЛАСНО  
ЗАКОНАМ ГОСУДАРСТВА ВИСКОНСИНА

7. Additional Information (Optional)  
ДОПОЛНИТЕЛЬНАЯ (ДОПОЛНИТЕЛЬНАЯ) ИНФОРМАЦИЯ

8. Pay the following Filing Fee:  
ЗАПЛАТИТЕ СЛЕДУЮЩУЮ ПЛАТУ РЕГИСТРАЦИИ:

Limited Liability Partnership \$100.00  
ОГРАНИЧЕННОЕ ТОВАРИЩЕСТВО ОТВЕТСТВЕННОСТИ

9. The partnership submits this statement to register as a “registered limited liability partnership” under the Wisconsin Statutes.  
ПАРТНЕРСТВО ПРЕДСТАВЛЯЕТ ЭТОТ ОТЧЕТ, ЧТОБЫ РЕГИСТРИРОВАТЬСЯ КАК "РЕГИСТРИРОВАННОЕ ОГРАНИЧЕННОЕ ПАРТНЕРСТВО ОТВЕТСТВЕННОСТИ" СОГЛАСНО ВИСКОНСИНСКИМ УСТАВАМ

10.	_____	_____
	Partner’s Signature ПОДПИСЬ ПАРТНЕРА	Partner’s Signature ПОДПИСЬ ПАРТНЕРА
	_____	_____
	Date Signed ДАТА ПОДПИСЫВАЛАСЬ	Date Signed ДАТА ПОДПИСЫВАЛАСЬ
	_____	_____
	Printed Name НАПЕЧАТАННОЕ ИМЯ	Printed Name НАПЕЧАТАННОЕ ИМЯ

11. Enter your return address below:  
Войдите в ваш адрес возвращения ниже:

\_\_\_\_\_  
\_\_\_\_\_

Phone number during the day: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_  
ВОЗВРАТИТЕ АДРЕС И ТЕЛЕФОННЫЙ НОМЕР В ТЕЧЕНИЕ ДНЯ:

**POLICIES UNDERLYING EMPLOYMENT LAW ISSUES  
(WHERE THERE IS NO CONTRACT PROVISION)**

1. We Deal Here with At-Will Employees.

An employee is at-will if he does not have a written contract specifying the duration of his employment or the circumstances under which he can quit or be fired.

2. The Employer Has the Right to Protect the Business Interests Which it Has Invested Time and Money to Develop.

These interests include confidential information and customer relations.

3. The Employee Owes a Duty of Loyalty to His Employer During His Employment.

4. The Employee Has the Right to Protect His Own Interests.

These interests include the right to work and to move from job to job.

5. The Law Tries to Balance the Interests in (2) and (3) and (4).

6. At-Will Employees Can Quit or Be Fired at Any Time.

Neither party has any expectations to continued employment or employment for any length of time.

An employer cannot, however, fire an employee or change the conditions of his employment for discriminatory reasons (i.e. gender, race, age, disability).

7. The Law Encourages the Mobility of Workers.

An employee has the right to use his skills, experience and general knowledge from one job to another. He is protected when he leaves an employer as long as he takes with him only the experience, training and development which he acquired during the job. This is true even though the employee has become an expert in his area and the employer believes that his leaving is unfair.

An employee can not, however, take trade secrets of the employer.

8. Unless the Employee Has Signed a Valid Restrictive Covenant, the Employee Can Compete With His Former Employer After His Employment Ends.

9. Absent a Restrictive Covenant, An Employee Can Make Arrangements to Compete With the Employer While Still Employed by the Employer.

He cannot prepare during the hours he is supposed to be working for his employer. His attention then must be solely for his employer and his employer's business.

He cannot use confidential information of the employer to make his preparations.

He can agree with other employees (not during working time) that, when they leave the employer's employ, they will compete together against the employer.

He can buy a rival business or create his own business, even if his business will compete with the employer after the employee quits.

He cannot compete until his employment ends.

### **CREATING A BUSINESS/FORM OF BUSINESS**

1. Sole Proprietorship.  
Individual ownership.  
Individual liability.

General partnerships are treated like Sole Proprietorships—each partner is liable for the debts and obligations of the partnership.

2. Limited Partnership.

A Limited Partnership is generally considered a separate entity. It has its own Employer Identification Number.

Often used for "silent partners"—investors who do not participate in the business' operations.

A Limited partnership is run by one or more General Partners. General Partners have control over the partnership. General Partners generally can be liable for the partnership's debts and obligations.

A Limited Partnership also has Limited Partners. Aside from their investment in the partnership, Limited Partners do not vote regarding and have no role in the partnership's operation. Limited Partners do not have liability for partnership debts and obligations.

A Limited Partnership files a Certificate of Limited Partnership with the State. The Limited and General Partners create a written agreement regarding the business of the partnership. A Limited Partnership appoints a Registered Agent, at a registered address. The Registered Agent accepts legal papers served on the Limited Partnership.

A Limited Partnership files its own tax returns.

3. Corporation.

A corporation is considered a separate legal entity. It has its own Employer Identification Number.

Shareholders are protected from individual liability as long as corporate formalities are followed.

Shareholders buy stock in the corporation. Shareholders elect Board of Directors which governs the Corporation. The Board of Directors elects officers (President, Vice-President, Secretary, Treasurer) which carry out the directions of the Board of Directors.

A Corporation appoints a Registered Agent, at a registered address. The Registered Agent accepts legal papers served on the Corporation.

A Corporation files Articles of Incorporation with the State. It creates Bylaws, which are general rules governing the corporation. The Shareholders and/or Board of Directors hold meetings, at which the business of the Corporation is discussed and approved. Minutes are taken of these meetings.

A Corporation files its own tax return.

Corporations are subject to “double” taxation. A Corporation is taxed on its income. Another tax is paid by recipients of income from the Corporation.

4. Limited Liability Company.

A Limited Liability Company is considered a separate entity. It has its own Employer Identification Number.

A Limited Liability Company is a combination of a Corporation and a type of Partnership.

It has the benefit of limited liability of its owners, like a Corporation. It has the added benefit of “pass through” taxation like a Partnership.

The owners of a Limited Liability Company are called Members. Instead of stock, they hold units in the Limited Liability Company.

A Limited Liability Company appoints a Registered Agent, at a registered address. The Registered Agent accepts legal papers served on the Limited Liability Company.

A Limited Liability Company files Articles of Organization with the State. It creates an Operating Agreement, which states the general rules governing the company. Meetings are held and minutes are taken of the meetings.

A Limited Liability Company does not have officers or directors. It is either run by one or more members or one or more managers elected by the unit owners.

A Limited Liability Company files its own tax returns

5. Formation Requirements.

- a. Name.
- b. Address.
- c. Registered Agent and Registered Address.
- d. Purpose.
- e. Interests (if Limited Partnership), Stock (if Corporation), Units (if Limited Liability Company).
- f. General and Limited Partners (if Limited Partnership), Officers/Directors (if Corporation), Members (if Limited Liability Company),
- g. Member managed (and by who) or manager managed (and by who), if a Limited Liability Company.
- h. Articles of Organization filed with State.
- i. Bank Account, in the name of the Limited Partnership, Corporation, or Limited Liability Company.
- j. Employer Identification Number obtained from the IRS.

### **COVENANTS NOT TO COMPETE**

1. A Covenant Not to Compete is also Known as a Restrictive Covenant.
2. We Deal Here With Covenants in Employment.

There are also covenants in contracts for the sale of a business. Those are easier to enforce than covenants in employment.

3. No Federal Statute or Judge-Made Law Regulating Covenants.

Each of the 50 states has its own covenant law.  
We will study the law of Wisconsin.

4. What is a Restrictive Covenant in Employment?

A requirement in a written contract between an employee and employer that the employee will not, during or after his employment, act to compete with the employer.

5. Compete includes working for a competitor, starting one's own competing business, trying to or hiring away employees of the employer, and using confidential information of the employer.

6. In Wisconsin, if One Part of a Covenant is Invalid, the Entire Covenant is Unenforceable.

Some states allow a court to rewrite the covenant to take out an invalid part and to enforce the rest. When a court does this, it is said to "blue pencil" the covenant. The "blue pencil" describes the court's rewriting of the covenant to keep the enforceable part.

Wisconsin does not let its courts "blue pencil" a covenant. Either the covenant is totally valid, or it is totally invalid. So, if a requirement that an employee not work for a competitor is invalid, so is a requirement in the covenant that the employee not hire away other employees—even if the prohibition against hiring would otherwise be enforceable.

7. A Covenant Must be Supported by Adequate Consideration.

Consideration is the benefit and value for which each party bargains in a contract. Each party exchanges consideration with the other party—each party gives up something and gets something. All contracts must be "supported" by adequate consideration to be enforceable.

When an employee agrees to work for an employer, the consideration is the employer's payment of wages and the employee's performance of work.

An employment covenant which is signed before or when an employee begins his employment is supported by adequate consideration.

However, if an employer asks an existing employee to sign a covenant, the employee's continued employment alone is not adequate consideration to support the covenant. The employer must give the employee new consideration, such as a bonus or other special monetary payment.

8. A Covenant is Generally Valid While the Employee Works for the Employer.

9. Whether the Court Will Enforce the Covenant, After the Employee Stops Working for the Employer, Depends on What the Covenant Says and What Kind of Employment Relationship the Employer and the Employee Had.

10. The Validity of an Employment Covenant is Governed by Wis. Stat. Section 103.465. The statute provides that

A covenant by an employee not to compete with his employer during the employment after the termination of that employment, within a specified territory and during a specified time, is lawful and enforceable only if the restrictions are reasonably necessary to protect the employer. Any covenant which imposes an unreasonable restraint is illegal, void and unenforceable, even as to any part of the covenant which would be a reasonable restraint.

11. A Covenant Will be Enforced if it

- a. is necessary to protect employer;
- b. has a reasonable time restriction;
- c. has a reasonable territorial limit;
- d. is not harsh or oppressive to the employee; and
- e. is not against public policy.

12. A Covenant is Interpreted According to the Following Rules:

--Because the law favors the mobility of workers, a contract which restricts trade or competition is suspect;

--An employment contract that restricts trade or competition will be liberally interpreted in favor of the employee;

--A restrictive covenant will not be interpreted to extend further than its language absolutely requires

--The reasonableness of a covenant is determined from all the facts and circumstances.

13. The Employer Has the Burden of Proving that the Covenant is Reasonable.

14. Whether a Covenant is Reasonably Necessary to Protect the Employer Depends on Whether it is Reasonably Necessary to Protect the Employer's Business Interests.

This requires consideration of:

- a. the nature and character of the information sought to be protected;

- b. the extent to which the information's secrecy is vital to employer's ability to conduct its business;
- c. the extent to which information could be found elsewhere;
- d. the extent to which the restraint hurts the employee's ability to pursue a livelihood in area of his personal skills;
- e. the extent a stranger could compete in providing the services that the former is not allowed to provide.

A restrictive covenant should not be enforced just to protect an employer against the ordinary competition which stranger could give. The law requires some additional special facts and circumstances, which make the covenant reasonably necessary to protect the employer's business.

Confidential business information may be a proper basis of a covenant.

15. Reasonableness of Time Restriction.

Should be no longer than reasonably necessary to give the employer its needed protection.

Depending on the facts, the courts have upheld limits of one year and 18 months. Even a one year restriction may be too long, however, if the employee is only employed for a few months.

16. Reasonableness of Territorial Restriction.

Limitation expressed in terms of customers more closely approximates the area of the employer's vulnerability to unfair competition than does a strict geographic limitation, and does not deprive the employee of legitimate employment opportunities.

However, the total lack of a geographic restriction voids a covenant.

A nationwide restriction is justified only if the employee's customer base really spans the entire nation.

17. Harshness to Employee is Fact Specific.

Covenant should not prevent employee from earning his livelihood in his chosen profession.

18. The Relevant Public Policy Protects Both the Employee (job mobility) and the Employer (necessary protection of business interests)

19. Customer Lists.

Many covenants try to limit the employee's contacts with all of the employer's customers, even those with whom the employee has had no contact, and/or at branch offices where the employee did not work. The courts have looked at these attempts skeptically.

A customer list is only confidential to the extent that the customers on it cannot be discovered through public sources. An employee's personal relationship with customers is important to both the employee, who created the relationship, and the employer, who pays the employee to benefit from it.

### ОСУЩЕСТВЛЕНИЕ, НОМЕР 1

1. Билл работал для Компании А в течение 7 лет. Компания, Которую изготовление и продает кольцам для ключей фирмам, которые используют их в содействующих целях. В течение прошлых 5 лет, Билл работал как продавец, покрывающий территорию, включая Санкт-Петербург и Москву. Перед работой для Компании А, Билл работал в течение 8 лет для Компании Х, продавая гравированные ручки фирмам, которые использовали их в содействующих целях.

2. Билл был по желанию служащий для Компании А. День после Компании, нанятый Билл, но за 5 дней до того, как Билл начал работу для Компании А, Компания А, сделал так, чтобы Билл подписал соглашение. Компания А не платила Биллу ничто, когда он подписывал соглашение.

3. Соглашение, если, между прочим:

a. Билл не, прямо или косвенно, для 1-летнего после завершения его занятости, требовать или продавать фактическим или потенциальным клиентам Компании А, с которыми имел контакт в течение его занятости.

b. Билл не раскрыл бы никакой конфиденциальной информации или торговых секретов Компании А, пока та информация не становится достоянием общественности.

c. Билл не, прямо или косвенно, в течение 2 лет после завершения его занятости, нанимать или поощрять кого - либо еще нанимать любого служащего, агента или представителя Компании А, или любого филиала Компании А, или поощрять любого такого служащего, агента или представителя уходить.

4. Компания А дала Биллу группу существующих клиентов и списков предполагаемых клиентов. Билл также требовал клиентов. Он получил потенциальную информацию клиента от каталогов, торговых ассоциаций, телефонных книг, газетных статей и других источников.

5. Клиент также дал информацию продукта Билла, преysкуранты, истории продаж клиента, предполагаемые истории контакта клиента, и финансовую информацию относительно компании, ее финансового условия и ее финансовой истории.

6. Билл рассердился когда Компания отказанный, чтобы дать ему повышение. Он начал думать об изменяющейся занятости.

7. Компания В связывалась с Биллом в течение его занятости с Компанией А. Компания В изготовители и продает кольца для ключей, проданные фирмам в содействующих целях, и - конкурент Компании А. Компания В была в этом бизнесе в течение 5 лет. Это сделало так, чтобы существующий клиент базировался, который включает некоторых, но не все, клиентов, покупающих от Компании А. Компания В имеет историю наема служащих от Компании А и ее других конкурентов.

8. Билл главным образом говорил или встретился с Компанией В после часов работы, но он будет при случае говорить с Компанией В в то время как в Компании офиса Аа или в то время как на коммерческих запросах.

Билл решил оставить Компанию А и стать нанятым с Компанией В. Билл сообщал Компании В его соглашения с Компанией А, и подписал документ для Компании В, который заявил, что он будет соблюдать его соглашение с Компанией А.

9. Билл дружил с 4 другими Компаниями служащие. Он часто выходил бы в обед с ними. В течение одного обеда, он сказал им, что он был неудовлетворен Компанией А и собирался уходить и становиться нанятым Компанией В. 2 из этих четырех друзей сказали, что они были также неудовлетворены Компанией А, потому что им не платили достаточно, и что они могли бы связаться с Компанией В, чтобы видеть, наймет ли Компания В их также. Билл сказал им, что Компания В была хорошей компанией. После этого обеда, Билл иногда, обычно мимоходом, обращался бы к его плану оставить его занятость с Компанией А, когда он видел его друзей на работе.

10. Билл оставлял Компанию А 28 февраля. Он не давал двухнедельное или другое уведомление.

Билл начал занятость с Компании В 1 марта. В день он уходил, он написал его Компании клиентам и сказал им, что он больше не работал для Компании А и работал для Компании В.

11. Когда Билл оставлял Компанию А, он помещал документы в его владение относительно Компании продукт Аа, оценка, клиент и информация компании в туалете. Билл возвратил их в Компанию А 28 марта.

12. Коммерческая территория Билла для Компании В включенный Санкт-Петербург, но не Москва. Билл требовал и/или продал за Компанию В к некоторым из тех же самых клиентов, которым он требовал и/или продавал за Компанию А. Он также требовал и/или продал новым клиентам. Он также требовал и/или продал

клиентам, которым он продал перед работой за Компанию А, некоторые из которых Билл продал в то время как с Компанией А. В дополнение к Компании коммерческая информация Ба, Билл использовал те же самые коммерческие методы для Компании В, поскольку он использовал для Компании А. Он также использовал его знание Компании клиенты Аа и оценка.

13. Спустя два месяца после того, как Билл оставляет Компанию А и стал нанятым Компанией В, два из его 4 друзей в Компании А сделали то же самое. В дополнение к Компании коммерческая информация Ба, Билл использовал те же самые коммерческие методы для Компании В, поскольку он использовал для Компании А. Он также использовал его знание Компании клиенты Аа и оценка.

13. Спустя два месяца после того, как Билл оставляет Компанию А и стал нанятым Компанией В, два из его 4 друзей в Компании А сделали то же самое.

## EXERCISE #1 ОСУЩЕСТВЛЕНИЕ #1

### COVENANTS NOT TO COMPETE СОГЛАШЕНИЯ, ЧТОБЫ НЕ КОНКУРИРОВАТЬ

1. Company A makes key chains. It sells them to businesses. The businesses use them to promote their products.  
Компания А делает кольца для ключей. Это продает им фирмам. Фирмы используют их, чтобы продвинуть их продукты.
2. Bill worked for Company A for 7 years.  
Билл работал для Компании А в течение 7 лет.
3. For 5 years, Bill was a salesman for Company A. He worked in the area which included St. Petersburg and Moscow.  
в течение прошлых 5 лет, Билл был продавцом для Компании А. Это работало на территории, которая включала Санкт-Петербург и Москву.
4. Before working for Company A, Bill worked for 8 years for Company X. Bill sold engraved pencils to businesses. The businesses use them to promote their products.  
Перед работой для Компании А, Билл работал в течение 8 лет для Компании Х. Билл продал гравированные карандаши фирмам. Фирмы используют их, чтобы продвинуть их продукцию.
5. Bill signed an agreement for Company A. He did after he was hired, but 5 days before his first day of work. Company A did not pay Bill for this.

Билл подписал соглашение для Компании А. Он сделал после того, как он был нанят, но за 5 дней до его первого дня работы. Компания А не платила Биллу за это.

6. This was the only contract Bill had with Company A.  
Это было единственным контрактом, который Билл имел с Компанией А.

7. The agreement provided:  
Соглашение обеспечило:

a. Bill cannot sell or try to sell to any customer which he had at Company A. This restriction lasts for one year after Bill's employment with Company ends.  
Билл не может продать или пробовать продать любому клиенту, которого он имел в Компании А. Это ограничение длится в течение одного года после его занятости с Компанией концы.

b. Bill cannot disclose any confidential information or trade secrets of Company A while that information is not public.  
Билл не может раскрыть никакой конфиденциальной информации или торговых секретов Компании А, пока та информация не становится достоянием общественности.

c. Bill can not hire any Company A employee to work for another company, or try to get them to quit their jobs with Company A. This restriction lasts for two years after Bill's employment with Company ends.  
Билл не может нанять никакой Компании служащий, чтобы работать для другой компании, или пробовать убедить их оставлять Компанию А. Это ограничение длится в течение двух лет после занятости Билла с концами Компании.

8. Company A gave Bill a list of existing clients and prospective clients. Bill also searched for clients independently. He obtained information from newspapers, managements, associations, and other sources.

Компания А дала Биллу список существующих клиентов и предполагаемых клиентов. Билл также искал клиентов независимо. Это получило информацию клиента от газет, управлений, ассоциаций, и других источников.

9. Company A also gave Bill product information, price lists, histories of client sales, history of client contacts, and financial information concerning Company A.

Компания А также дала Биллу информацию продукта, прейскурантов, истории продаж клиента, история контакта клиента, и финансовой информации относительно Компании А.

10. Bill became angry when Company A refused to give him a raise. He began to think about changing employment.

Билл рассердился, когда Компания не увеличила его заработную плату. Это начало думать об изменяющейся занятости.

11. Company B competes with Company A. Company B also makes key rings and sells them to businesses. The businesses use them to promote their products.

Компания В конкурирует с Компанией А. Компания В также делает кольца для ключей и продает им фирмам. Фирмы используют их, чтобы продвинуть их продукты.

12. Company B has been in business for 5 years.

Компания В была в бизнесе в течение 5 лет.

13. Some of Company A's customers also buy from Company B. Some do not.

Часть Компании клиенты Аа также покупает от Компании В. Некоторые не делают.

14. In the past, Company B has persuaded employees of Company A and other companies to quit their employment and work for Company B.

В прошлом Компания В убедила служащих Компании А и других компаний оставлять их занятость и работу для Компании В.

15. While Bill was employed by Company A, Company B telephoned him.

В то время как Билл был нанят Компанией А, Компания В телефонировала ему.

16. Bill mostly spoke or met with Company B after he was done with his work for the day. Sometimes Bill spoke with Company B while at Company A's offices or while on the way to customers' offices.

Билл главным образом говорил или встретил Компанию В после того, как это было сделано с ее работой в течение дня. Иногда Билл говорил с Компанией В в то время как в офисах Компании Аа или в то время как на пути к офисам клиентов.

17. Bill decided to quit Company A and become employed with Company B. Bill advised Company B of his agreement with Company A, and signed a document for Company B that stated he would abide by his agreement with Company A.

Билл решил оставить Компанию А и стать нанятым с Компанией В. Билл сообщил Компании В его соглашения с Компанией А, и подписал документ для Компании В, который заявил, что он будет соблюдать его соглашение с Компанией А.

18. Bill is friends with four other Company A employees. He often dines with them.

Билл дружит с четырьмя другими Компаниями служащие. Он часто обедает с ними.

19. At one dinner Bill told his friends that he was unhappy with Company A and was going to leave Company A and become employed by Company B. Two of the four friends said that they were also unhappy with Company A, because their wages were too low. They said that they might see if Company B would hire them also. Bill told them that Company B was a good company. After this dinner, when

Bill saw his friends at work, he would sometimes refer to his plan to work for Company B.

В течение одного обеда Билл сказал его друзьям, что это не любило Компанию А и собиралось оставлять Компанию А и работу для Компании В. Два из этих четырех друзей говорили, что они также не любили Компанию А, потому что их заработная плата была слишком низка. Они говорили, который они могли видеть, могут ли они также работать для Компании В. Билл сказал этому, что Компания В была хорошей компанией. После этого обеда, когда Билл увидел его друзей на работе, он будет иногда обращаться к его плану работать для Компании В.

20. Bill quit Company A on February 28. On that day, he wrote to his Company A customers and told them that he no longer worked for Company A and was working for Company B. On that day, he put the documents which Company A had given him about the products, customers and company finances in a box. He did not return them to Company A until March 28.

Билл оставлял Компанию А 28 февраля. В тот день, он написал его Компании А клиентам и сказал им, что он больше не работал для Компании А и работал для Компании В. В тот день, это поместило документы, которые Компания А дала этому о производстве, клиентах и финансах компании в коробке. Это не возвращало их в Компании А до 28 марта.

21. Bill began employment with Company B on March 1.  
Билл начал занятость с Компании В 1 марта.

22. Bill sold for Company B in St. Petersburg, but not Moscow. He sold to some customers he had while with Company A, but not all. He sold to new customers. He sold to customers he first met before he worked for Company A.

Билл продал за Компанию В в Санкт-Петербурге, но не Москве. Он продал некоторым клиентам, которых он имел в то время как с Компанией А, но не всеми. Он продал новым клиентам. Он продал клиентам, с которыми он встретился в первый раз прежде, чем он работал для Компании А.

23. Bill used information which Company B gave him. He also used the techniques he had used for Company A. He also used his knowledge of the customers and prices of Company A.

Билл использовал информацию, которую Компания В дала ему. Он также использовал методы, которые он использовал для Компании А. Он также использовал его знание клиентов и цен Компании А.

24. Two months after Bill became employed by Company B, two of his four friends quit employment with Company A and also became employed by Company B.

Позже спустя два месяца после Билла became нанятый Компанией В, два из ее четырех друзей оставляют занятость с Компанией А и также стали нанятыми Компанией В.

## **EXERCISE #1**

1. Bill worked for Company A for 7 years. Company A manufactures and sells key rings to businesses, which use them for promotional purposes. For the last 5 years, Bill has worked as a salesman covering the territory including St. Petersburg and Moscow. Before working for Company A, Bill had worked for 8 years for Company X, selling engraved pens to businesses, which used them for promotional purposes.
2. Bill was an at-will employee for Company A. The day after Company A hired Bill, but 5 days before Bill started work for Company A, Company A had Bill sign an agreement. Company A did not pay Bill anything when he signed the agreement.
3. The agreement provided, among other things:
  - a. Bill would not, directly or indirectly, for 1 year after termination of his employment, solicit or sell to actual or potential customers of Company A with whom had had contact during his employment.
  - b. Bill would not disclose any confidential information or trade secrets of Company A until that information becomes public.
  - c. Bill would not, directly or indirectly, for 2 years after termination of his employment, employ or encourage anyone else to employ any employee, agent or representative of Company A, or any affiliate of Company A, or encourage any such employee, agent or representative to quit.
4. Company A gave Bill a group of existing customers and lists of prospective customers. Bill also solicited customers. He obtained potential customer information from trade journals, trade associations, telephone books, newspaper articles and other sources.
5. Company A also gave Bill product information, price lists, customer sales histories, prospective customer contact histories, and financial information regarding the company, its financial condition and its financial history.
6. Bill became angry when Company A refused to give him a raise. He began to think about changing employment.
7. Company B contacted Bill during his employment with Company A. Company B manufactures and sells key rings, sold to businesses for promotional purposes, and is a competitor of Company A. Company B has been in this business for 5 years. It has an existing customer base which includes some, but not all, of

- customers buying from Company A. Company B has a history of hiring employees from Company A and its other competitors.
8. Bill mostly spoke or met with Company B after work hours, but he would on occasion talk to Company B while at Company A's offices or while on sales calls. Bill decided to quit Company A and become employed with Company B. Bill advised Company B of his agreement with Company A, and signed a document for Company B that stated he would abide by his agreement with Company A.
  9. Bill was friends with 4 other Company A employees. He would frequently go out to dinner with them. During one dinner, he told them that he was dissatisfied with Company A and was going to quit and become employed by Company B. 2 of the four friends said that they were also dissatisfied with Company A, because they were not being paid enough, and that they might contact Company B to see whether Company B would hire them also. Bill told them that Company B was a good company. After this dinner, Bill would occasionally, usually in passing, refer to his plan to quit his employment with Company A when he saw his friends at work.
  10. Bill quit Company A on February 28. He did not give a two-week or other notice. Bill began employment with Company B on March 1. On the day he quit, he wrote to his Company A customers and told them that he no longer worked for Company A and was working for Company B.
  11. When Bill quit Company A, he put the documents in his possession regarding Company A's product, pricing, customer and company information in a closet. Bill returned them to Company A on March 28.
  12. Bill's sales territory for Company B included St. Petersburg, but not Moscow. Bill solicited and/or sold for Company B to some of the same customers to which he had solicited and/or sold for Company A. He also solicited and/or sold to new customers. He also solicited and/or sold to customers to which he had sold before working for Company A, some of whom Bill sold to while with Company A. In addition to Company B's sales information, Bill used the same sales techniques for Company B as he had used for Company A. He also used his knowledge of Company A's customers and pricing.
  13. Two months after Bill quit Company A and became employed by Company B, two of his 4 friends at Company A did the same.

EXERCISE #1  
ОСУЩЕСТВЛЕНИЕ #1

COVENANTS NOT TO COMPETE

## СОГЛАШЕНИЯ, ЧТОБЫ НЕ КОНКУРИРОВАТЬ

1. Company A makes key chains. It sells them to businesses. The businesses use them to promote their products.

Компания А делает кольца для ключей. Это продает им фирмам. Фирмы используют их, чтобы продвинуть их продукты.

2. Bill worked for Company A for 7 years.

Билл работал для Компании А в течение 7 лет.

3. For 5 years, Bill was a salesman for Company A. He worked in the area which included St. Petersburg and Moscow.

в течение прошлых 5 лет, Билл был продавцом для Компании А. Это работало на территории, которая включала Санкт-Петербург и Москву.

4. Before working for Company A, Bill worked for 8 years for Company X. Bill sold engraved pencils to businesses. The businesses use them to promote their products.

Перед работой для Компании А, Билл работал в течение 8 лет для Компании Х. Билл продал гравированные карандаши фирмам. Фирмы используют их, чтобы продвинуть их продукцию.

5. Bill signed an agreement for Company A. He did after he was hired, but 5 days before his first day of work. Company A did not pay Bill for this.

Билл подписал соглашение для Компании А. Он сделал после того, как он был нанят, но за 5 дней до его первого дня работы. Компания А не платила Биллу за это.

6. This was the only contract Bill had with Company A.

Это было единственным контрактом, который Билл имел с Компанией А.

7. The agreement provided:

Соглашение обеспечило:

a. Bill cannot sell or try to sell to any customer which he had at Company A. This restriction lasts for one year after Bill's employment with Company ends.

Билл не может продать или пробовать продать любому клиенту, которого он имел в Компании А. Это ограничение длится в течение одного года после его занятости с Компанией концы.

b. Bill cannot disclose any confidential information or trade secrets of Company A while that information is not public.

Билл не может раскрыть никакой конфиденциальной информации или торговых секретов Компании А, пока та информация не становится достоянием общественности.

c. Bill can not hire any Company A employee to work for another company, or try to get them to quit their jobs with Company A. This restriction lasts for two years after Bill's employment with Company ends.

Билл не может нанять никакой Компании служащий, чтобы работать для другой компании, или попробовать убедить их оставлять Компанию А. Это ограничение длится в течение двух лет после занятости Билла с концами Компании.

8. Company A gave Bill a list of existing clients and prospective clients. Bill also searched for clients independently. He obtained information from newspapers, managements, associations, and other sources.

Компания А дала Биллу список существующих клиентов и предполагаемых клиентов. Билл также искал клиентов независимо. Это получило информацию клиента от газет, управлений, ассоциаций, и других источников.

9. Company A also gave Bill product information, price lists, histories of client sales, history of client contacts, and financial information concerning Company A.

Компания А также дала Биллу информацию продукта, прейскурантов, истории продаж клиента, история контакта клиента, и финансовой информации относительно Компании А.

10. Bill became angry when Company A refused to give him a raise. He began to think about changing employment.

Билл рассердился, когда Компания не увеличила его заработную плату. Это начало думать об изменяющейся занятости.

11. Company B competes with Company A. Company B also makes key rings and sells them to businesses. The businesses use them to promote their products.

Компания В конкурирует с Компанией А. Компания В также делает кольца для ключей и продает им фирмам. Фирмы используют их, чтобы продвинуть их продукты.

12. Company B has been in business for 5 years.

Компания В была в бизнесе в течение 5 лет.

13. Some of Company A's customers also buy from Company B. Some do not.

Часть Компании клиенты Аа также покупает от Компании В. Некоторые не делают.

14. In the past, Company B has persuaded employees of Company A and other companies to quit their employment and work for Company B.

В прошлом Компания В убедила служащих Компании А и других компаний оставлять их занятость и работу для Компании В.

15. While Bill was employed by Company A, Company B telephoned him.  
В то время как Билл был нанят Компанией А, Компания В телефонировала ему.

16. Bill mostly spoke or met with Company B after he was done with his work for the day. Sometimes Bill spoke with Company B while at Company A's offices or while on the way to customers' offices.

Билл главным образом говорил или встретил Компанию В после того, как это было сделано с ее работой в течение дня. Иногда Билл говорил с Компанией В в то время как в офисах Компании Аа или в то время как на пути к офисам клиентов.

17. Bill decided to quit Company A and become employed with Company B. Bill advised Company B of his agreement with Company A, and signed a document for Company B that stated he would abide by his agreement with Company A.

Билл решил оставить Компанию А и стать нанятым с Компанией В. Билл сообщал Компании В его соглашения с Компанией А, и подписал документ для Компании В, который заявил, что он будет соблюдать его соглашение с Компанией А.

18. Bill is friends with four other Company A employees. He often dines with them.

Билл дружит с четырьмя другими Компаниями служащие. Он часто обедает с ними.

19. At one dinner Bill told his friends that he was unhappy with Company A and was going to leave Company A and become employed by Company B. Two of the four friends said that they were also unhappy with Company A, because their wages were too low. They said that they might see if Company B would hire them also. Bill told them that Company B was a good company. After this dinner, when Bill saw his friends at work, he would sometimes refer to his plan to work for Company B.

В течение одного обеда Билл сказал его друзьям, что это не любило Компанию А и собиралось оставлять Компанию А и работу для Компании В. Два из этих четырех друзей говорили, что они также не любили Компанию А, потому что их заработная плата была слишком низка. Они говорили, который они могли видеть, могут ли они также работать для Компании В. Билл сказал этому, что Компания В была хорошей компанией. После этого обеда, когда Билл увидел его друзей на работе, он будет иногда обращаться к его плану работать для Компании В.

20. Bill quit Company A on February 28. On that day, he wrote to his Company A customers and told them that he no longer worked for Company A and was working for Company B. On that day, he put the documents which Company A had given him about the products, customers and company finances in a box. He did not return them to Company A until March 28.

Билл оставлял Компанию А 28 февраля. В тот день, он написал его Компании А клиентам и сказал им, что он больше не работал для Компании А и работал для Компании В. В тот день, это поместило документы, которые Компания А дала этому о производстве, клиентах и финансах компании в коробке. Это не возвращало их в Компании А до 28 марта.

21. Bill began employment with Company B on March 1.  
Билл начал занятость с Компании В 1 марта.

22. Bill sold for Company B in St. Petersburg, but not Moscow. He sold to some customers he had while with Company A, but not all. He sold to new customers. He sold to customers he first met before he worked for Company A.

Билл продал за Компанию В в Санкт-Петербурге, но не Москве. Он продал некоторым клиентам, которых он имел в то время как с Компанией А, но не всеми. Он продал новым клиентам. Он продал клиентам, с которыми он встретился в первый раз прежде, чем он работал для Компании А.

23. Bill used information which Company B gave him. He also used the techniques he had used for Company A. He also used his knowledge of the customers and prices of Company A.

Билл использовал информацию, которую Компания В дала ему. Он также использовал методы, которые он использовал для Компании А. Он также использовал его знание клиентов и цен Компании А.

24. Two months after Bill became employed by Company B, two of his four friends quit employment with Company A and also became employed by Company B.

Позже спустя два месяца после Билла became нанятый Компанией В, два из ее четырех друзей оставляют занятость с Компанией А и также стали нанятыми Компанией В.

## **COURTS, ARBITRATION, AND MEDIATION**

### **A. Courts**

1. Decided by Judge or Jury
2. Can Not Choose Decider
3. Full Evidentiary and Discovery Rules
4. Formal Trial
5. Held at Time and Place Convenient to Court
6. Proceedings Public
7. Can Appeal Adverse Decision
  - a. Questions of fact, law, discretion
8. Takes Time
  - a. Employment cases—720 days

9. Expensive
  10. Parties Pay Their Own Attorneys Fees (unless contract or statute apportions costs, fees)
- B. Arbitration
1. Usually Need Contract Provision  
Some Statutes Require (law firm fee disputes)
  2. Decided by One or More Arbitrators Chosen by the Parties
    - a. Arbitrators independent
    - b. Arbitrators frequently experts in the disputed field
  3. Evidentiary Rules Loosened; Discovery Restricted
  4. More informal hearing
    - a. Evidence still presented
    - b. Cross examination still occurs
  5. Held at Time and Place Convenient to Parties and Arbitrators
  6. Proceedings Private (until challenge to decision)
  7. Can Not Appeal Arbitrator's Decision Except for Limited Wrongs:
    - a. Failure to follow procedures
    - b. Decision arbitrary and capricious
      1. But no second guessing decision
    - c. Bias
  8. Decision Can Be Enforced by Filing in Court
  9. Takes Less Time than Court—104 days (2003 survey)
  10. Less Expensive
  11. Parties Split Cost of Arbitrator and Pay Their Own Attorneys Fees (unless contract or statute apportions costs, fees)
- C. Participants Satisfied With Arbitration  
83% believed arbitration was as fair as or fairer than court (2003 survey)
- D. Employee Plaintiffs Do as Well in Arbitration as in Court (1998 survey)
- E. Mediation
1. Attempt to Settle Case With Use of a Neutral Facilitator--Negotiation
  2. Court May Require Mediation
  3. Mediator Does Not Decide Case
  4. If the Parties Do Not Reach a Settlement, Matter Proceeds to Court/Arbitration
  5. Parties Split Costs of Mediator and Pay Their Own Attorneys Fees

## **CONSTITUTION, SEPARATION OF POWERS**

1. Declaration of Independence
  - A. Declared Independence From Great Britain
  - B. Guaranteed Rights
    1. Life
    2. Liberty
    3. Pursuit of Happiness
  
2. Constitution
  - A. The governing laws of the land
    1. Creates and protects basic rights
    2. Defines the government
  - B. Amendments
    1. 27 Total Amendments
    2. First 10 Amendments—Bill of Rights
      - a. First Amendment—freedom of speech, religion, press, assembly, petition the government
  
3. Three Branches of Government
  - A. Purposes—So One Branch Does Not Become Too Powerful
    1. Checks and Balances
    2. Separation of Powers
  - B. Branches
    1. Legislative (Congress)  
Make laws
    2. Executive (President)  
Implement laws
    3. Judicial (Courts)  
Interpret laws
  - C. Examples of Checks and Balances
    1. Congress passes law  
President vetoes law  
Congress overrides veto
    2. Congress passes law  
Courts hold law invalid under Constitution
    3. President appoints Supreme Court justices  
Congress (senate) approves appointee
  - D. Legislative Branch--Congress
    1. Senate
      - a. 100, 2 per state
      - b. 6-year term
    2. House of Representatives
      - a. 435, per states' populations
      - b. 2-year term
  - E. Executive Branch

1. President
  - a. 4 year terms
  - b. Next election 2008
  - c. Signs bills that become law
  - d. Vetoes bills
  - e. Commander-in-chief of military
2. Vice President
  - a. Serves if president cannot
    1. If Vice President cannot serve, Speaker of the House of Representatives serves
  - b. Breaks tie vote in senate
3. Cabinet
  - a. Advisors to President
  - b. Appointed by President, approved by 51 votes of Senate
  - c. Secretaries of State, Defense, Treasury, Agriculture, Education, Commerce, Interior, Homeland Security, Housing and Human Development, Transportation, Labor, Veterans' Affairs, Attorney General

#### F. Judicial Branch—Courts

1. Review, explain, resolve disagreements regarding, and determine constitutionality of laws
2. Levels of Courts
  - a. Trial courts—hear evidence and resolve case
  - b. Courts of appeal—hear claims of error of trial court
    1. Findings of fact
    2. Conclusions of law
    3. Discretion
  - c. Supreme Court
    1. Highest level court
    2. Resolves questions of law
3. Supreme Court
  - a. 9 Justices
  - b. Appointed by President, with approval of Senate
  - c. Lifetime appointments
  - d. Chief Justice—John Roberts

#### 4. Federal Versus State

The Constitution Gives Some Powers to the Federal Government and Reserves the Rest to the States

##### A. Federal Powers

1. Print money
2. Declare war
3. Create army
4. Make treaties
5. Regulate commerce among the states and internationally
6. Establish post offices and postage

7. Enact laws necessary to enforce the Constitution
- B. State Powers
1. Establish local governments
  2. Issue licenses (driver, marriage, hunting)
  3. Regulate intrastate commerce
  4. Ratify amendments to the Constitution
  5. Provide education
  5. Provide protection (police)
  6. Provide safety (fire department)
  7. Regulate land use, zoning

### State of Wisconsin

#### CERTIFICATE OF LIMITED PARTNERSHIP ГОСУДАРСТВО ВИСКОНСИНА СВИДЕТЕЛЬСТВО ОБ ОГРАНИЧЕННОМ ТОВАРИЩЕСТВЕ

The undersigned signs this document to form a Wisconsin limited partnership under the Wisconsin Statutes:

Нижеподписавшийся подписывает этот документ, чтобы сформироваться, Висконсин ограничил товарищество согласно Висконсинским Уставам:

**Article 1.** Name of the limited partnership:

СТАТЬЯ 1. НАЗВАНИЕ ОГРАНИЧЕННОГО ТОВАРИЩЕСТВА:

\_\_\_\_\_

(must contain the words "limited partnership," "L.P." or "LP")  
(ДОЛЖЕН СОДЕРЖАТЬ СЛОВА, "ОГРАНИЧИЛ ТОВАРИЩЕСТВО", "L.P." ИЛИ "LP")

**Article 2.** Street address

СТАТЬЯ 2. УЛИЧНЫЙ АДРЕС ОСНОВНОГО ОФИСА:

\_\_\_\_\_

\_\_\_\_\_

**Article 3.** Latest date upon which the limited partnership will dissolve:

СТАТЬЯ 3. ПОСЛЕДНЯЯ ДАТА, НА КОТОРУЮ РАСПАДЕТСЯ  
ОГРАНИЧЕННОЕ ТОВАРИЩЕСТВО:

**Article 4.** Name of agent for service of legal documents:

\_\_\_\_\_  
СТАТЬЯ 4. НАЗВАНИЕ АГЕНТА ДЛЯ ОБСЛУЖИВАНИЯ ЮРИДИЧЕСКИХ  
ДОКУМЕНТОВ:

**Article 5.** Street address of the agent for service of legal documents:

СТАТЬЯ 5. УЛИЧНЫЙ АДРЕС АГЕНТА ДЛЯ ОБСЛУЖИВАНИЯ  
ЮРИДИЧЕСКИХ ДОКУМЕНТОВ

\_\_\_\_\_  
\_\_\_\_\_

**Article 6.** Other items (Optional).

СТАТЬЯ 6. ДРУГИЕ (ДОПОЛНИТЕЛЬНЫЕ) ПУНКТЫ

**Article 7. FILING FEE - \$70.00**

**Статья 7. РЕГИСТРАЦИЯ ПЛАТЫ - 70.00 \$**

**Article 8.** Name, address and signature of each GENERAL partner:

СТАТЬЯ 8. НАЗВАНИЕ, АДРЕС И ПОДПИСЬ КАЖДОГО ОБЩЕГО ПАРТНЕРА:

General Partner's Name and Address:  
НАИМЕНОВАНИЕ И АДРЕС ОБЩЕГО  
ПАРТНЕРА:

Signature:  
ПОДПИСЬ:

1. \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

Date

\_\_\_\_\_  
(ДАТА)

2. \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

Date

\_\_\_\_\_  
(ДАТА)

3. \_\_\_\_\_  
\_\_\_\_\_

Date

\_\_\_\_\_  
(ДАТА)

4. \_\_\_\_\_  
\_\_\_\_\_

Date

\_\_\_\_\_  
(ДАТА)

**Article 9.** This document was drafted by:  
Статья 9. Этот документ был проектирован:

\_\_\_\_\_  
(Name the individual who drafted the document)  
(Назовите человека, который проектировал документ)

**Article 10.** Enter your return address below:  
Статья 10. Войдите в ваш адрес возвращения ниже:

\_\_\_\_\_  
\_\_\_\_\_

**Phone number** during the day:  
ТЕЛЕФОННЫЙ НОМЕР В ТЕЧЕНИЕ ДНЯ:

\_\_\_\_\_

**State of Wisconsin**

**ARTICLES OF ORGANIZATION – LIMITED LIABILITY COMPANY**  
ГОСУДАРСТВО ВИСКОНСИНА  
СТАТЬИ КОМПАНИИ С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ  
ОРГАНИЗАЦИИ

The undersigned signs this document to form a Wisconsin limited liability company under the Wisconsin Statutes:

НИЖЕПОДПИСАВШИЙСЯ ПОДПИСЫВАЕТ ЭТОТ ДОКУМЕНТ, ЧТОБЫ  
СФОРМИРОВАТЬ ВИСКОНСИНСКУЮ КОМПАНИЮ С ОГРАНИЧЕННОЙ  
ОТВЕТСТВЕННОСТЬЮ СОГЛАСНО ВИСКОНСИНСКИМ УСТАВАМ:

**Article 1:** Name of the limited liability company:

СТАТЬЯ 1. НАЗВАНИЕ КОМПАНИИ С ОГРАНИЧЕННОЙ  
ОТВЕТСТВЕННОСТЬЮ:

\_\_\_\_\_

**Article 2:** The limited liability company is organized under the Wisconsin Statutes.

СТАТЬЯ 2. КОМПАНИЯ С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ  
ОРГАНИЗОВАНА СОГЛАСНО ВИСКОНСИНСКИМ УСТАВАМ.

**Article 3:** Name of the initial registered agent:

СТАТЬЯ 3. ИМЯ НАЧАЛЬНОГО РЕГИСТРИРОВАННОГО АГЕНТА:

**Article 4:** Street address of the registered office:

СТАТЬЯ 4. УЛИЧНЫЙ АДРЕС ЗАРЕГИСТРИРОВАННОГО ОФИСА:

\_\_\_\_\_  
\_\_\_\_\_

**Article 5.** The limited liability company shall be managed by:

(Select and check (X) in one box)

СТАТЬЯ 5. КОМПАНИЯ С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ  
ДОЛЖНА УПРАВЛЯТЬСЯ:

a manager or managers  
МЕНЕДЖЕР ИЛИ МЕНЕДЖЕРЫ

**OR**  
ИЛИ

its members

ЕГО ЧЛЕНЫ

**Article 6.** Name and address of each organizer:

СТАТЬЯ 6. НАИМЕНОВАНИЕ И АДРЕС КАЖДОГО ОРГАНИЗАТОРА:

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Organizer's Signature  
ПОДПИСЬ ОРГАНИЗАТОРА

Organizer's Signature  
ПОДПИСЬ ОРГАНИЗАТОРА

**Article 7.** This document was drafted by

Статья 7. Этот документ был проектирован

---

(Name the individual who drafted the document)  
(Назовите человека, который проектировал документ)

**Article 8. Filing Fee - \$170.00**

**Статья 8. Регистрация Платы - 170.00 \$**

**Article 9.** Enter your return address below:

Статья 9. Войдите в ваш адрес возвращения ниже:

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**Phone number** during the day:

ТЕЛЕФОННЫЙ НОМЕР В ТЕЧЕНИЕ ДНЯ:

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**State of Wisconsin**

**ARTICLES OF INCORPORATION – STOCK FOR-PROFIT CORPORATION**  
**ШТАТ ВИСКОНСИНА**  
**СТАТЬИ АКЦИИ ОБЪЕДИНЕНИЯ ЗА-ПРИБЫЛЬ КОРПОРАЦИЯ**

The undersigned signs this document to form a Wisconsin for-profit corporation under the Wisconsin Statutes:

Нижеподписавшийся подписывает этот документ, чтобы сформировать Висконсинскую за-прибыль корпорацию согласно Висконсинским Уставам:

**Article 1.** Name of the corporation:

\_\_\_\_\_  
СТАТЬЯ 1. ИМЯ КОРПОРАЦИИ:

**Article 2.** The corporation is organized under the Wisconsin Statutes.

СТАТЬЯ 2. КОРПОРАЦИЯ ОРГАНИЗОВАНА СОГЛАСНО ВИСКОНСИНСКИМ УСТАВАМ.

**Article 3.** The corporation shall be authorized to issue \_\_\_\_\_ shares of stock.

СТАТЬЯ 3. КОРПОРАЦИЯ ДОЛЖНА БЫТЬ УПОЛНОМОЧЕНА ВЫПУСТИТЬ ДОЛИ \_\_\_\_\_ ЗАПАСА.

**Article 4.** Name of the registered agent:

\_\_\_\_\_  
СТАТЬЯ 4. НАЗВАНИЕ ЗАРЕГИСТРИРОВАННОГО АГЕНТА:

**Article 5.** Street address of the registered office:

СТАТЬЯ 5. УЛИЧНЫЙ АДРЕС ЗАРЕГИСТРИРОВАННОГО ОФИСА:

\_\_\_\_\_  
\_\_\_\_\_

**Article 6.** Other provisions (Optional):

СТАТЬЯ 6. ДРУГИЕ (ДОПОЛНИТЕЛЬНЫЕ) УСЛОВИЯ:

**Article 7.** Filing Fee - \$100.00

Статья 7. Регистрация Платы - 100.00 \$

**Article 8.** Name and Address of each incorporator:

СТАТЬЯ 8. НАИМЕНОВАНИЕ И АДРЕС КАЖДОГО УЧРЕДИТЕЛЯ  
КОРПОРАЦИИ:

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Incorporator's Signature  
ПОДПИСЬ УЧРЕДИТЕЛЯ  
КОРПОРАЦИИ

Incorporator's Signature  
ПОДПИСЬ УЧРЕДИТЕЛЯ  
КОРПОРАЦИИ

**Article 9.** This document was drafted by:

Статья 9. Этот документ был проектирован:

---

(Name the individual who drafted the document)  
(Назовите человека, который проектировал документ)

**Article 10.** Enter your return address below:

Статья 10. Войдите в ваш адрес возвращения ниже:

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**Phone number** during the day: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_  
ТЕЛЕФОННЫЙ НОМЕР В ТЕЧЕНИЕ ДНЯ:

#### ALTERNATE AND/OR ADDITIONAL CLAIMS

1. Breach of employee's duty of loyalty.

Duty does not exist after employee's employment terminates. Acts must have occurred during employment.

2. Unjust enrichment.

A. Unjust enrichment:

1. plaintiff confers benefit on defendant;

2. Defendant knows and appreciates the benefit;
3. Defendant accepts or retains benefit under circumstances making it unfair for defendant to keep benefit.

B. Historically, there can be no unjust enrichment claim if there is a contract claim.

C. Recent Wisconsin Court of Appeals Case—Certified Power, Inc. v. Beirele

Allows unjust enrichment claim even where there is a contract, where the unjust enrichment claim “moves apart” from the contract and involves obligations independent of the contract.

3. Interference With Actual/Prospective Contract.

A. Action would be against new employer.

B. Requirements:

1. A contract or prospective contract between plaintiff (former employer) and employee;
2. Interference with that contract or potential party by defendant third party (i.e. new employer);
3. Interference was intentional.
4. Interference was not justified.
5. Interference caused plaintiff's damages.

C. Re intent:

1. It is reasonable to infer that one intends the natural and probable consequences of his acts.
2. Defendant's primary purpose must be to interfere with the actual or prospective contractual relationship plaintiff had with the employee; or defendant knew or should have known that interference was substantially certain to occur because of his conduct.
3. Defendant's goal does not have to be to hurt plaintiff.

D. Re justification:

1. Many factors are considered, including:
  - a. the type, duration, and timing of the conduct;
  - b. whether defendant had an improper motive;
  - c. whether defendant was motivated by self-interest as opposed to a public interest;
  - d. the type of interest allegedly interfered with;
  - e. society's interest in protecting both defendant's freedom of action and actual or prospective contracts;
  - f. the closeness or remoteness of defendant's acts to the alleged interference;

- g. whether the parties are competitors; and
- h. whether defendant's conduct, even though intentional, was fair and reasonable under the circumstances.

2. Justification exists only if defendant used lawful means.

3. Defendant's conduct can be lawful, even if part of his motive was improper, so long as defendant's motive was mostly proper.

E. There are Some Privileges to an Interference Claim.

If the privileges are proved, there is no liability.

1. Where defendant has a legal interest and acts to protect it.

2. Defendant can give honest information when asked for advice.

3. Defendant exercises his free speech rights to complain.