

Taking the Guesswork Out of Budgeting for Noncompetitive Litigation

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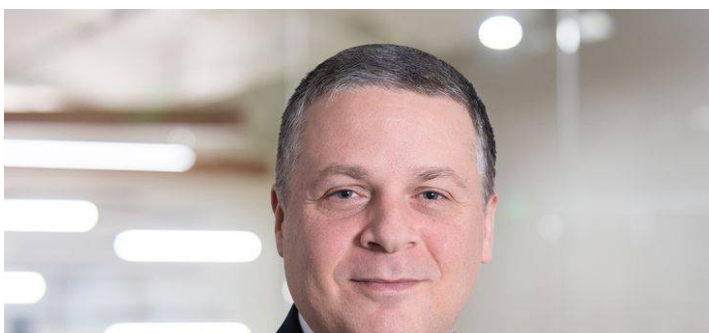
Developing a budget for any type of litigation can be daunting. With its front-loaded cost structure and unpredictability, noncompetitive litigation is particularly challenging. But without a working budget, in-house counsel can feel like they are entering a battle blind. They don't have to. The key to hitting the mark in budgeting for noncompetitive litigation is recognizing what you can control and continually adjusting to account for what you cannot.

There are many factors in noncompetitive litigation that can keep you guessing. These well known factors include (but are far from limited to): the extent and nature of discovery sought by the other parties; the number of, and extent of preparation required for, depositions and preparation of witness testimony; the nature and extent of electronic discovery and computer forensic work that may be required; whether you or opposing parties decide to engage an expert; the timing of any settlement discussions; the manner in which the defendants may choose to defend against your claims (for instance, by filing a multitude of motions), or the counterclaims they may assert; as well as the discovery, hearing schedule and briefing required by the court; and many other factors that may be difficult to predict or control.

The bottom line is that litigation budgets in noncompetitive cases are difficult to prepare, but not impossible and certainly worthwhile. Preparing a budget facilitates open communication between in-house and outside counsel while enabling parties to align expectation and objectives with a desired budget.

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