Underutilized Provisions of the Uniform Trade Secrets Act

Insights
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In 1979, the Uniform Trade Secrets Act ("UTSA") was completed by the National Conference of Commissioners on Uniform State Laws, and it was amended by the Commissioners in 1985. The purpose of the UTSA was to provide states with a comprehensive model piece of trade secret legislation. To date, forty-six states plus the District of Columbia have enacted trade secret legislation, the vast majority of which substantially resembles the uniform act. (Massachusetts, New Jersey, New York and Texas have not enacted the UTSA, but legislation has been proposed recently in all of these states except Texas.) Despite the "uniformity" of the UTSA, an often overlooked provision sits at Section 8 of the statute, entitled "Uniformity of Application and Construction." This section states:

"This Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act among the states enacting it."

What does this mean? It means if you cannot find a case addressing a particular trade secret issue in your state, you should look to cases decided in other states. Still yet, even if you can find a case on point in your state, the statute provides legislative support to you if you wish to urge the court to follow the decisions of other states. This section of the statute can be of great help in those states where the body of available case law is underdeveloped. But be forewarned – not all states enacting the UTSA have adopted section 8. See e.g., the Maine Uniform Trade Secrets Act at Me. Rev. Stat. Ann. tit. 10, §§ 1541-48.

UTSA.pdf (12.49 kb)

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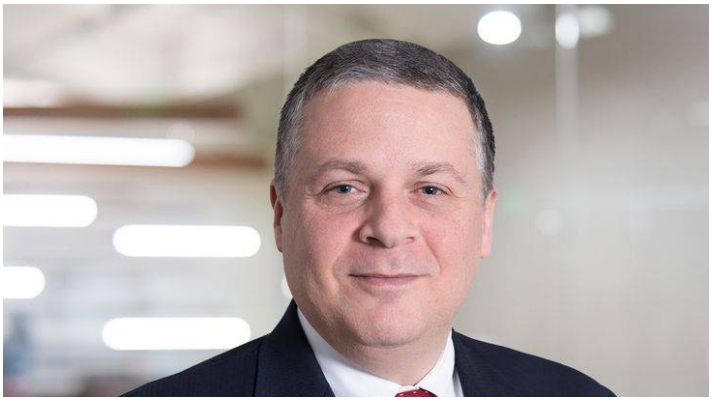

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