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Are You a High-Level Exec?

You may need an executive contract

BY D PARTNER STUDIO | PUBLISHED IN SPONSORED | MARCH 26, 2018 | 7:00 AM

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C-level executives, and those aspiring to get there, need to understand and prepare for legal issues that impact their job mobility and the deferred compensation they have worked so hard to earn. Any aspiring executive who does not have a contract protecting their deferred and incentive compensation is vulnerable to losing that compensation. .

Leadership changes, mergers and acquisitions, capital infusions and activist shareholders can cause abrupt and wholesale changes in the C-suite. When that happens, your past achievements often mean little to the acquiring entity or

private equity firm taking control. Indeed, it's natural that anyone investing money into a company wants to import its own C-level team.

If you are thinking about hiring a labor and employment lawyer for an executive contract, remember that executive contracts are not merely formal "term sheets" addressing only pay and duties. They are complex instruments that should address your rights while employed and, just as importantly, your rights and obligations upon departure. If an executive is subject to a noncompete or non-solicit, it can hurt their "marketability." Many employers are reluctant to hire executives subject to non-competes or they will offer less in compensation because they fear an expensive legal battle over the non-compete.

A small amount of planning now protects your equity, gives you the flexibility to work elsewhere, and prevents expensive litigation.

It's critical to carefully consider your needs and protect long-term earnings with an executive contract. Stock options and other equity awards may be tied to non compete, non-solicit, or other obligations. A fair and balanced contract and non-compete should help an executive's ability to work elsewhere. Waiting until you have been fired to consider these important issues is too late.

"I've seen countless well-intentioned partners get busy working during the start-up or honeymoon phase and never get around to papering their deal and/or an employment contract," says labor and employment lawyer Rogge Dunn. "Then, when a capital infusion occurs and they lack anti-

dilution protection or they experience a liquidity event with undocumented equity rights, they end up embroiled in bitter litigation. The take away: A small amount of planning now protects your equity, gives you the flexibility to work elsewhere, and prevents expensive litigation.”

Rogge Dunn, partner at ClouseDunn, represents corporations, executives, entrepreneurs, and individuals in a variety of complex matters involving business disputes, employment law, partnership issues, FINRA, arbitration, class actions, NCAA investigations, shareholder oppression, breach of contract, “business divorce,” non-competes, trade secrets, whistleblowing, and significant personal injuries. Dunn is among the few attorneys in Texas who is Board Certified in both Civil Trial Law and in Labor and Employment Law by the Texas Board of Legal Specialization. He has litigated complex business, employment, and personal injury disputes throughout the country and tried cases to a jury verdict or arbitration award in seven states and eight Texas cities.

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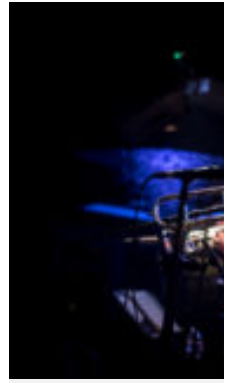
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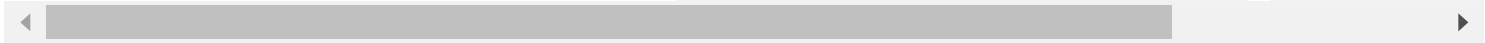
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