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Pro-Enforcement Noncompete Decision From Wisconsin Supreme Court

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I have written here before on the unique issues raised by state-by-state variations in noncompete law, and here in depth on one of the key variations – what a state's courts will recognize as sufficient consideration for a noncompete. Is "mere" continuing employment sufficient as it is in Ohio, for example, or is does it require something as is the case in Kentucky since a 2014 decision from that state's Supreme Court? In the closely watched case of *Runzheimer Int'l Ltd. v. Friedlen*, Wisconsin has come down more on the Ohio side. Runzheimer required Friedlen to sign a noncompete for the first time after nearly 20 years of employment with the company. Two years later, the company fired Friedlen. Friedlen went to work for a competitor, and the company sued to enforce its noncompete. Friedlen claimed the noncompete was invalid because he did not receive anything in exchange other than continued employment. The Wisconsin Supreme Court noted, however, that Friedlen was employed for two more years after signing the agreement, so the company kept its promise not to fire him when he signed the agreement. The court noted the situation would be different had Friedlen been terminated immediately after signing the agreement. The court did not say what period of time between "immediately" and two years would suffice. As explained in the linked sources, companies who could be "competed with" in Wisconsin should consult with counsel about the implications of this decision. Even if your agreement specifies your home state's law, you could find yourself litigating over the agreement in a Wisconsin court.

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