

## Indiana Court Of Appeals Upholds The Enforcement Of A Five-Year Non-compete Agreement

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When Indiana employers draft non-compete agreements, they must weigh whether the Indiana courts will find their agreements' restrictions to be reasonable, and therefore enforceable. The Indiana Court of Appeal recently issued a decision which illustrates how restrictive these agreements can be. In [Mayne v. O'Bannon Publishing Co. d/b/a Corydon Instant Press](#), the court upheld the enforcement of a five-year non-compete agreement covering a two-county area.

O'Bannon Publishing Co. employed Elizabeth Mayne as a manager at its facility in Harrison County, Indiana, which is directly across the Ohio River from Louisville, Kentucky. At the start of her employment, Mayne signed a non-compete agreement that barred her from competing with the Company in Harrison County or neighboring Crawford County, Indiana, for five years after her employment ended. In May 2012, Mayne allegedly resigned her employment and bought a competing printing company less than a mile from the Company.

The Company then obtained a preliminary injunction against Mayne to enforce its non-compete agreement with her. Mayne appealed, claiming that agreement was unenforceable because the five year duration of the agreement was unreasonable. The Court of Appeals disagreed, finding that the five year duration was reasonable because Mayne worked "closely and directly" with the Company's customers. Further, the Court noted that the geographic scope of the agreement was limited, allowing Mayne to compete with the Company in Louisville simply by crossing the state line.

This case illustrates that there are no hard and fast rules for non-compete agreements—the agreement will be enforced if "reasonable." These agreements can have longer durations—here five years—if the geographic scope of the agreement is limited. The employee's position is another key factor, with the court permitting greater restrictions where the employee has more significant dealing with customers. The key takeaway from this is that in Indiana, as in most states, non-compete agreements need to be narrowly tailored for the business and the individual position. Businesses should retain competent legal counsel for assistance in drafting these agreements if they hope to enforce them.

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