

# California Trade Secrets

## You Wouldn't Ask Your Barber to Clean Your Teeth – Hire a Trade Secret Litigator for Trade Secret Litigation

By [Jim Heffner](#)

Trade secret litigation in California state and federal courts involves unique procedures and strategies not present in general employment or commercial litigation. Attorneys experienced and well versed in this specialized area of law are generally better suited to litigate trade secret cases. While this can be seen throughout a case in numerous ways, two examples that highlight the importance of hiring experienced counsel early at the outset of litigation are briefly discussed below.

First, trade secret law generally displaces non-contract common law causes of action arising out of the same conduct. At the outset of litigation, defendants can often successfully dispose of claims such as breach of duty, unfair competition, interference with economic advantage, and interference with contract. This is true even where the plaintiff does not plead a cause of action for misappropriation of trade secrets; or where the plaintiff alleges that the information is merely confidential, as opposed to a trade secret.

Effective defense counsel will dispose of non-contract common law claims and force the plaintiff to proceed under more rigorous trade secret laws.

Second, a plaintiff proceeding with a trade secret claim must typically identify the trade secret with reasonable particularity before beginning discovery. Trade secret defense counsel understand courts' interpretations of "reasonable particularity" and press plaintiffs to satisfy this requirement. Forcing a plaintiff to properly identify a trade secret confines and limits discovery and litigation to that trade secret, prevents the plaintiff from fishing for additional claims through litigation, and can reveal the absence of any trade secret at all.

Effective defense counsel will take action to prevent a plaintiff from seeking discovery regarding vague allegations of trade secrets such as "customer lists," "confidential financial information," "confidential pricing structures," and similar umbrella terms.

A company's trade secrets are critical to its future success and ensuring you have counsel who is prepared to protect them is imperative. In a trade secret case, time is of the essence. The sooner an attorney who is experienced in trade secret matters is involved, the more effective they will be in preserving evidence and protecting your interests. Whether you believe your information was misappropriated or whether you are being accused of misappropriation, selecting a litigator with trade secret experience may make the difference in your case.



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