

## Texas Supreme Court Rules on Non-Competition Agreements

By Bruce Coane

Many employers require their employees to sign an agreement that states that after the employee stops working for the employer, the employee cannot work for a competitor for a certain time period. Whether such a non-competition agreement is enforceable is an issue that has resulted in much litigation.

In a recent decision, the Texas Supreme Court clarified the circumstances under which a non-competition agreement is enforceable. The name of the case that was decided by the Texas Supreme Court is Alex Sheshunoff Management Services (ASM) v. Johnson. In that case, ASM and Kenneth Johnson, who was an employee of ASM, signed an agreement that states that ASM will provide confidential information to Johnson, that Johnson will not reveal this confidential information, and that, for one year after the end of his employment with ASM, Johnson will not provide consulting services to clients of ASM that he dealt with while employed by ASM.

After Johnson resigned from ASM and began working for a competitor of ASM, ASM sued Johnson, claiming that he violated the non-competition agreement he signed. Johnson argued that the non-competition agreement was unenforceable because of a ruling the Texas Supreme Court made in 1994 in a different case. However, in Johnson's case, the Texas Supreme Court modified the ruling that it made in 1994.

The Texas Supreme Court ruled that the non-competition agreement Johnson signed was enforceable because (1) in the non-competition agreement, ASM promised to give Johnson confidential information, (2) in the non-competition agreement, Johnson

promised not to reveal confidential information, (3) ASM later fulfilled its promise to give Johnson confidential information, and (4) the agreement's restrictions on Johnson's ability to compete with ASM were reasonable.

Prior to the Texas Supreme Court's decision, the validity of many noncompetition agreements was uncertain. As a result of the Texas Supreme Court's decision, more non-competition agreements will now be enforced.

Bruce A. Coane is Board Certified in Immigration and Nationality Law by the Texas Board of Legal Specialization. The law firm of Coane & Associates has offices at 407 Lincoln Road, Suite 306, Miami Beach, Florida 33139, Tel. (786) 457-VISA (8472) and 1900 West Loop South, Suite 820, Houston, Texas 77027, Tel. (713) 850-0066. The law firm website is [www.coane.com](http://www.coane.com). The law firm email is [houstonlaw@aol.com](mailto:houstonlaw@aol.com).