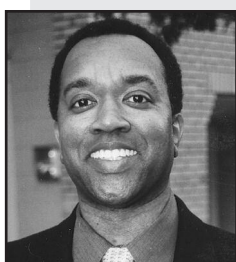
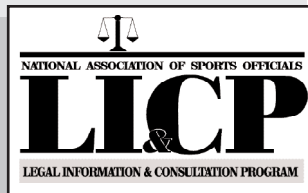


## Your Legal Rights and Responsibilities

# Proprietary Association Material

**NASO members who have legal questions concerning situations pertaining to their officiating now have access to an attorney free of charge. As a benefit of membership, all individual NASO members can talk with an attorney up to three times a year concerning officiating-related matters. It's the Legal Information and Consultation Program (LICP) and it's working for you!**



**By Donald C. Collins**

**Q:** A longtime member of our local chapter had a rift with the rest of the chapter leadership last year and so he quit our group and joined a competing officials' group in our area. The problem is that member started and organized our annual

basketball tournament that brought in a lot of money to our group. We still run our tournament, but now we're hearing our former member is starting the same tourney with his new group, set for the same date and he's appealing to all the contacts he made while he was with us. Can we take legal action against him?

**A:** Legal action probably won't do you much good here. There's nothing in the law that stops an official from switching from one group to another and soliciting clients when he joins his new group. Now, that might appear to be a bit unseemly, but the business of officiating has been a vast forum for competition for years. There are individuals and associations who regularly raid opposing officials and officials associations' clients. The law views that as good competition; there's nothing wrong with it. You would probably lose your case against your former member.

The law faces an inherent tension between the right to compete in business, the unseemly stealing of — or unfair use of — a company's proprietary data, and the freedom to contract. Your problem here is that the law wants your former member to be able to compete in business. But the law doesn't generally want to have your former member run off with proprietary data like the Coca Cola secret formula or the brand new super secret microchip at Microsoft. Those are called trade secrets, and the law does protect companies

against people who run off with their former employer's trade secrets. That gets into the vast areas of intellectual property law.

The problem for your association is that the list of basketball schools, teams, organizations, referees and leagues isn't exactly a trade secret. To be a trade secret, somebody has to try to keep information secret. Courts are unlikely to find the list of teams that play in public basketball games to be a secret list.

Your only possible recourse here is to start drafting non-competition agreements with association members. That is hardly worth the time. First, the agreements aren't usually valid in some states. Those states favor competition over the right to contract. Second, in those states where the agreements are valid they have to be limited in time, limited in geographic scope and linked to a legitimate business interest. Usually, a non-competition agreement that exceeds six months is a bit suspect, and one that exceeds a year probably won't stand up. Worse, it is not likely that a court would view the sponsoring of a basketball tournament as the legitimate business interest of a group of basketball officials. One would think that your legitimate business interest is to officiate basketball. However, if a court did think that sponsoring tournaments is your legitimate business interest, you wouldn't get much protection. After either six months or a year, your former member would be able to compete against you and you'd confront the problem that you face now.

*Donald C. Collins is the executive director of the San Francisco Section of the California Interscholastic Federation. He is a longtime basketball official and lawyer. This material is intended for informational purposes and is not legal advice. □*

*Is there a topic you or anyone else in your association would like to share? ONBoard would like to interview you. Send your ideas to [editor@NASO-ON.org](mailto:editor@NASO-ON.org).*



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