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Defend Trade Secrets Act Requires Employers to Provide Notice of Immunity to Putative Whistleblowers

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As a follow up to [our previous post](#), a new federal law, the **Defend Trade Secrets Act of 2016 (DTSA)**, which went into place on May 11, provides a federal cause of action for trade secret misappropriation.

One important employment law aspect of the DTSA that has not received a lot of attention is the requirement that employers provide notice of the immunity provided by the DTSA to putative whistleblowers. Such notice should appear in employee confidentiality agreements and the like. Failure to provide the notice will result in the employer's inability to recover exemplary damages or attorneys' fees against an employee who violates the DTSA and whose confidentiality agreement lacked the disclosure. The notice provision does not require the revision of agreements in existence prior to May 11. Rather, it applies to any such agreements amended or new agreements made on or after May 11, 2016.

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