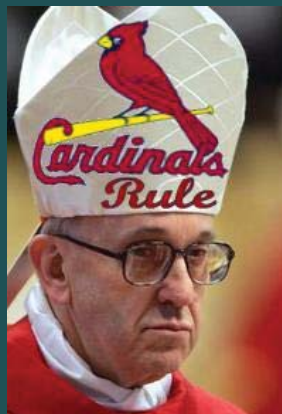


The TRO Process



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Cardinal Rules



- The burden is on you
- One size does not fit all
- Every coin has two sides
- Yes, you can – but should you?

Get Your Evidentiary Ducks in a Row



- ESI and forensic Investigation... make sure you can authenticate ESI
- Interview witnesses and obtain affidavits
- Focus on the black hat evidence
- If no clear evidence, then consider a Rule 202 deposition
- Prepare your witnesses early for their future cross examination

Preserve Evidence



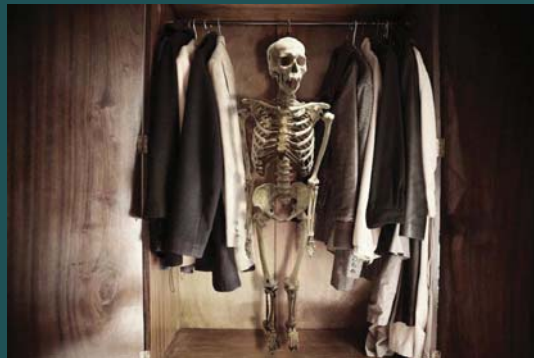
- Search and image employee's server-side mailbox, computer, and devices
- Access logs
- Browsing history
- Document complete efforts with litigation hold letters

What Other Claims are Available?



- Other BOK claims: NDA, non-solicitation, return of company property agreement (may get you fees)
- Breach of fiduciary duty
- Texas Uniform Trade Secret Act
- Federal Defend Trade Secrets Act

Anticipate the Counterclaims



- Best defense to contractual claim is a contractual counterclaim
- Have all wages, bonuses, and commissions been paid?
- Was the employee correctly classified under the FLSA?
- If there is a separation agreement, were potential counterclaims properly released?

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Title search: The TRO Process

Also available as part of the eCourse

[2016 Essential Non-Compete and Trade Secret Law eConference](#)

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Management session
"The Local TRO Process"