
“A Good Offense” – WilmerHale Attorneys Publish Article in *New York Law Journal* Special In-House Counsel Section

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The prestigious *New York Law Journal* published an article authored by WilmerHale Partner [Brent J. Gurney](#), Senior Associate [Josh Ferrentino](#) and Associate [Alex White](#). The article, “[The Benefits of Early and Aggressive Affirmative Discovery in Defending Trade Secret Misappropriation Claims](#),” appears on page five of today’s *NYLJ* in its special issue for in-house counsel.

The article explains how defense counsel can promote a good offense and turn the tables on plaintiffs in trade secrets cases by initiating early, aggressive discovery. Liberal pleading rules make it easy for plaintiffs to launch fishing expeditions based on superficial allegations that can expose core trade secrets and intellectual property, as well as “a long period of expensive discovery, a battle of the experts, and a complicated trial.”

To mitigate the risks, the authors explain how defense counsel can and should move immediately for an order barring any discovery of the defendant until the other side specifies, in detail, what was allegedly misappropriated. The order can direct the other side to provide sworn declarations and employees for deposition. This “opening move” can pin down the other side before they have a chance to get organized, prepared, and, most importantly, access to your own records. It can lead to other benefits too, such as discovery of statute of limitation problems or other holes in plaintiff’s case that might allow you to short-circuit the entire case by filing early dispositive motions, or otherwise whittle away the claims against your client.