

NDAs may be bad politics, but they are good business

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Michael Bloomberg is no longer in the presidential race, yet many still remember how he was taken to task by Elizabeth Warren. The two were part of a televised Democratic debate in Las Vegas where Warren hammered the billionaire for his company's use of non-disclosure agreements when dismissing employees, particularly women who lodged complaints of harassment or discrimination against Bloomberg. Warren is within her rights to point this fact out because her facts were accurate, but NDAs remain an essential part of doing business.

Businesses spend a lot of time controlling the dispersal of information beyond the company or investors because it wishes to protect information about new products, services and other information that ideally gives them a competitive edge.

Keeping information confidential

Businesses in Connecticut, Massachusetts and elsewhere use NDAs to keep the information confidential. It is a contract between two parties – generally the employer and the departing employee, executive or business partner. The departing party cannot unlearn experience gained while working for a company. Still, the contract helps ensure that the business has legal recourse if the other party improperly discloses information. This will often come into play with:

- Trade secrets
- Intellectual property
- Business plans and novel inventions
- Sensitive business or personal information
- Knowledge of embarrassing details, such as a consensual sexual affair

Coverups are not good business

Bloomberg [released former female employees](#) from their NDAs, which provided some cover for the

former candidate during the debate. Nevertheless, it highlighted a shifting business culture where even a billionaire had to rethink what he says and how he acts. The media specifically identified three instances where the business titan and former mayor made offhand comments about women's role in the workplace and what they need to do to get ahead (not having babies was one cited example).

In the era of the #MeToo movement, it does not serve the interests of the company to cover up accusations of harassment or sexual assault. Quite the opposite, companies need to have clear guidelines regarding fair treatment of all employees and investigate any allegations of impropriety. One recent example was the rumors of misconduct by Best Buy CEO Corie Barry before her current position and a fellow executive no longer with the company. The company's board has since [cleared her](#) after a thorough investigation.

Attorneys can draft useful NDAs

Those with questions regarding an NDA or other business contracts often find it useful to consult with an attorney who handles business law, contracts and employee rights. They can be a tremendous help in addressing disputes or drafting guides that can help avoid unnecessary exposure in a dispute.

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