

Insights: Alerts

FTC's Rule Banning Non-Competes is Benched, But Enforcement Actions Are in Play

September 11, 2025

Written by **Drew Williamson**

This Alert is the latest installment in our [reporting](#) on the Federal Trade Commission's ("FTC") 2024 rule banning non-competes and the future of the Commission's strategy for regulating the use of restrictive covenants in the employment context.

Since its promulgation in 2024, the FTC's rule banning nearly all non-compete provisions has faced stiff opposition. Opponents of the rule argued that the agency lacked congressional authority to impose the near blanket ban on non-competes. In fact, when the rule was finalized in April 2024, then-Commissioner Andrew Ferguson (now FTC Chairman), dissented and called the rule "[b]y far the most extraordinary assertion of authority in the Commission's history" and warned that it violated constitutional limits on the agency's authority.

On September 5, 2025, in the latest development in this saga, the FTC voted to officially abandon its appeals in several cases challenging the Biden-era rule. The Commission voluntarily withdrew its appeals, bringing an end to one of the most high-profile regulatory initiatives of the Biden administration.

Although the FTC's non-compete rule is dead, the agency's focus on non-compete clauses is very much alive. In February, Chairman Ferguson [launched](#) a Joint Labor Task Force ("Task Force") aimed at "rooting out and prosecuting deceptive, unfair, and anticompetitive labor-market practices that harm American workers."

On September 4, 2025, the Task Force took its first major step toward limiting the use of practices limiting worker mobility when it [issued](#) a complaint and proposed consent order against the largest pet cremation company in the United States. In the complaint, the FTC charged the company with violating Section 5 of the FTC Act. The agency alleged that the company's policy of requiring all newly hired employees (except those in California), including hourly workers, regardless of their job duties, to sign non-compete agreements that included 12-month post-employment covenants constituted an unfair method of competition.

The proposed consent order required the company to, among other things, cease entering or enforcing the post-employment covenants in the United States. It also required the company to stop prohibiting former employees from soliciting current or prospective customers other than those with whom the employee had direct contact or to whom they personally provided services during their final year of employment with the company.

The two parties ultimately reached a settlement agreement last week—precluding the company from enforcing noncompete agreements against approximately 1,800 employees.

Following this settlement, the FTC sent letters to healthcare employers and staffing companies on September 10, 2025, warning them not to include overly broad noncompete restrictions in their employment contracts and urging them to conduct reviews to ensure they comply with applicable law. The letters stated that while narrowly tailored non-competes can serve a legitimate purpose in certain circumstances, the FTC has information suggesting that some companies are unreasonably restricting the employment options of nurses, physicians, and other vital medical professionals.

Kelse Moen, Deputy Director of the FTC's Bureau of Competition and Co-Chair of the Commission's Task Force, said the letters show non-competes remain a top priority for the FTC. Moen also “strongly” encouraged “all employers — not just those receiving letters today — to review their contracts closely, to ensure that any restrictions on employee mobility are in full compliance with the law.”

Key Takeaways

The FTC's recent enforcement actions reinforces the Commission's commitment to investigating companies it believes are using unfair or anticompetitive non-compete or customer non-solicit agreements. The scope of the recent settlement and the letters to healthcare and staffing companies sends a clear message to employers: non-compete and customer non-solicit provisions must be reasonable, justified, and narrowly tailored. It also serves as a reminder that post-employment covenants against competition should not be required from all employees, but only where enforcement would serve a legitimate business interest, most notably the protection of actual customer relationships and protection of trade secrets.

Employers should consider following the FTC's advice and audit their existing agreements to ensure they are used only with employees who have access to trade secrets, confidential information, or active involvement with sensitive customer relationships. Employers should further confirm that the agreements are narrowly tailored to protect only the employer's legitimate business interest.

If you have any questions about this Alert, please contact one of the authors or the attorney(s) in our firm with whom you are regularly in contact.

Related People



Drew Williamson

t 404.815.6522

drew.williamson@ktslaw.com