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FTC Abandons Non-Compete Rule, But Will Review Agreements Case-by-Case

Alert

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On September 5, the Federal Trade Commission (“FTC”) officially abandoned its nationwide ban on non-compete agreements, dismissing appeals in *Ryan, LLC v. FTC* and *Properties of the Villages v. FTC*. This ends the 2024 rule that sought to prohibit employee non-competes across the board.

At the same time, the FTC emphasized that non-compete enforcement on a case-by-case basis remains a top priority. Chairman Andrew Ferguson stated the agency will “enforce the antitrust laws aggressively” against unreasonable restraints. Deputy Director Kelse Moen echoed that targeting unfair or overbroad non-competes is now a central focus.

Recent steps underscore this shift:

- The FTC sent letters to large healthcare employers and staffing firms instructing them to review restrictive covenants for compliance.
- The agency launched a public inquiry on the use and effects of non-competes to inform future enforcement. The inquiry invited both current and former employees restricted by noncompete agreements, as well as employers facing hiring difficulties due to a rival’s noncompete agreements, to “share information to help shine a light on unfair and anticompetitive agreements”.

Key Takeaways

- **Nationwide Ban Overturned:** Courts have vacated the FTC’s rule banning non-compete agreements, and the FTC has dropped its appeals.
- **Case-by-Case Enforcement:** The FTC will refocus its efforts to, on a case-by-case basis, challenge non-competes which it views as overbroad, unjustified, or anticompetitive.
- **Healthcare Focus First:** Enforcement letters have already gone out to major employers and staffing firms in the healthcare sector.
- **Action Item:** Employers should proactively review their non-competes and other restrictive covenants to ensure they are narrowly tailored and defensible.

Contact

Our firm has closely followed the FTC’s non-compete ban since it was first proposed and will continue to monitor the FTC’s announcements and policies on non-competition agreements for any updates. If you would like assistance from our law firm, including how ruling may affect you, please do not hesitate to contact your Windels Marx relationship lawyer, [Scott Matthews](#) or [Marky Suazo](#) of our Employment and Employee Benefits Practice Group, or [Charles Damato](#) or [Jonathan Gray](#) of our Corporate and Securities Practice Group.

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