

September 10, 2025

FTC Abandons Non-Compete Prohibition

Insight

Last week, the Federal Trade Commission (FTC) abandoned its quest to ban non-compete agreements, while also seeking dismissal of its appeals of courts decisions invalidating its non-compete ban rule. We reported on the FTC's activities last year in [FTC Issues Final Rule Banning Non-Compete Clauses](#) (April 25, 2024), [Texas Federal Court Issues Preliminary Injunction against FTC Non-Compete Ban Rule](#) (July 9, 2024), [Pennsylvania Federal Court Refuses to Prevent FTC Non-Compete Ban from Taking Effect](#) (July 24, 2024), and [Another Federal Court Issues Preliminary Injunction against FTC's Non-Compete Ban Rule](#) (August 20, 2024).

The FTC's decision to dismiss its appeals in [Ryan LLC v. Federal Trade Commission](#) accompanied its decision to vacate the Final Rule banning non-competes. FTC Chairman Andrew N. Ferguson and Commissioner Melissa Holyoak issued a [statement](#) explaining the decision to abandon the appeals and Final Rule. According to its statement, the Final Rule "purported to render categorically unlawful a species of contract that has been lawful since the eighteenth century"

A dissenting [statement](#) was issued by sole dissenter, Rebecca Kelly Slaughter, who is not currently an FTC Commissioner based on her firing in July 2025, subsequent reinstatement by a court and the United States Supreme Court's September 8, 2025, decision staying her reinstatement.

Although the FTC's actions constitute a win for businesses, it does not mean unfettered use of non-compete agreements will become the norm. Despite vacating the Final Rule, the FTC will target non-competes it considers unlawful and anticompetitive.

Gateway Services Case Shows Commission's New Tack on Noncompetes

Just a day before dismissing its appeals in the non-compete cases, the FTC ordered the nation's largest pet cremation company to stop enforcing restrictive non-compete agreements binding nearly 1,800 workers.

In a [complaint](#) filed against Gateway Services and its subsidiary Gateway US Holdings, Inc., the FTC alleged Gateway's non-compete agreements prohibiting nearly all employees from working in the pet cremation service industry anywhere in the United States for one year after leaving Gateway was anticompetitive because they "unfairly" alter the bargaining positions between employees and Gateway" and "impede the entry and expansion of Gateway's competitors in the pet cremation services industry," while also "preventing or discouraging Gateway employees from opening competing pet cremation businesses." The FTC's proposed consent order states, among other things, that:

- Gateway is prohibited from entering into, maintaining or enforcing non-compete agreements, with limited exceptions, or communicating to an employee or any other person that any former employee is subject to a non-compete agreement;
- Gateway must provide notice to employees they are no longer subject to a non-compete agreement; and

- Gateway cannot prohibit employees in any employment agreement from soliciting any prospective, current or former customers of Gateway, except with respect to those current or prospective customers with whom the employee had direct contact or personally provided service in the last 12 months of their employment with Gateway.

Key Takeaways for Employers

The FTC's enforcement activity against Gateway Services and its subsidiary shows just how serious FTC is about ensuring employees are not saddled by unfair non-competes that unreasonably stifle fair competition.

Businesses must monitor changes in non-compete law in each of the states in which it does business. In some instances, local governments such as New York City have considered banning non-competes within their jurisdiction. New York State is considering a non-compete ban, which is more reasonable than a prior ban Gov. Hochul vetoed in late 2023. In New York City, mayoral candidate Zohran Mamdani has made it a key plank of his campaign. Connecticut and New Jersey are considering bills banning non-competes.

Harris Beach Murtha's Labor and Employment Practice Group monitors non-compete law developments stemming from legislative, administrative and court activity. We advise and litigate these issues. If you need assistance, please reach out to attorney Salvatore G. Gangemi at (203) 653-5436, (212) 425-0630 and sgangemi@harrisbeachmurtha.com; attorney Daniel J. Palermo at (585) 419-8946 and dpalermo@harrisbeachmurtha.com; or the Harris Beach Murtha attorney with whom you most frequently work.

This alert does not purport to be a substitute for advice of counsel on specific matters.

Harris Beach Murtha's lawyers and consultants practice from offices throughout Connecticut in Bantam, Hartford, New Haven and Stamford; New York state in Albany, Binghamton, Buffalo, Ithaca, New York City, Niagara Falls, Rochester, Saratoga Springs, Syracuse, Long Island and White Plains, as well as in Boston, Massachusetts, and Newark, New Jersey.

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