

NONCOMPETE & TRADE SECRET LITIGATION



OVERVIEW

Effective July 1, 2025, Kansas has a new noncompete statute, KSA 50-163. Among other things, the new law presumes enforceable a customer nonsolicitation clause that is less than two years and limited to "Material Contact Customers" — i.e., actual or prospective customers the employee solicited, produced, or serviced, directly or indirectly, or about whom the employee had confidential business or proprietary information or trade secrets. We stand ready, willing, and able to counsel employers and employees alike in navigating this new law.

Our Foulston noncompete and trade secret litigation team includes some of the most effective and experienced trial attorneys in Kansas and Missouri. They have litigated (and drafted) every kind of restrictive covenant – noncompetes, nondisclosures, nonsolicitation of customers, nonsolicitation of employees, non-disparagement, and more. They have helped employers protect a broad variety of intellectual property rights, including through the drafting or enforcement of NDAs and "Work for Hire" arrangements. And they know what it takes to prove or defend against claims under the state Uniform Trade Secrets Act, the federal Defend Trade Secrets Act, the Computer Fraud and Abuse Act; claims for breach of fiduciary duty or duty of loyalty; claims relating to trademark, trade dress, or unfair competition; and similar claims under the common law and the Lanham Act. Our Foulston team has represented Fortune 500 and other well-known national and regional companies in high-stakes trade secrets cases; helped employers of all sizes enforce noncompete agreements against wayward former employees; navigated the defense of a new employee being sued on a noncompete; crafted strategic plans for closely held and startup businesses who need to protect their information and customer relationships through the use of customizable agreements; and everything in between.

AREAS OF REPRESENTATION

FOULSTON

ATTORNEYS AT LAW

Legal Representation

We represent businesses and employees, including doctors and other professionals throughout Kansas, in matters involving:

- Trade secret misappropriation
- Breach of noncompete, nonsolicitation, and/or nondisclosure/anti-piracy agreements
- Unfair competition
- Social media
- Tortious interference with business relationships and contracts
- Breach of fiduciary duty
- Violations of the Computer Fraud and Abuse Act (CFAA)
- Violations of the Uniform Trade Secrets Act
- Violations of the Stored Communications Act

Business Representation

We are able to help your business prevent the loss of valuable intellectual assets by:

- Auditing your trade secrets and proprietary information
- Drafting and enforcing tailored noncompete agreements, covenants not to compete, nondisclosure agreements, nondisclosure/anti-piracy agreements, and other restrictive covenants
- Conducting employee training on safeguarding trade secrets and proprietary information
- Conducting audits of key employee personnel files to make sure they have appropriate restrictive covenant in place
- Determining whether a noncompete agreement is legally enforceable before hiring a competitor's former employee

Employee Representation

If you are a transitioning employee who needs assistance with a noncompete matter, we can review your non-compete contract and provide you with advice and counsel on your options. Our review includes a summary of Kansas noncompete laws, strategies for negotiation, potential resolutions, and if necessary, litigation in lawsuits seeking to enforce the noncompete agreement.

PUBLICATIONS

ARTICLES

2021

Plan #TheBigShift Carefully to Protect Yourself From #TheBigLawsuit

2014

Analyzing a Trade Secret Case in Kansas

FOULSTON

ATTORNEYS AT LAW

-The Journal of the Kansas Bar Association

ISSUE ALERTS

2026

- Another Challenge to Restrictive Covenants — This Time to Such Agreements for Kansas Healthcare Providers

2024

- Texas Federal Court Strikes Down FTC's Non-Compete Ban on a Nationwide Level
- Employers Should Prepare for the FTC's Non-Compete Ban to Go Into Effect Sept. 4; Federal District Court Refuses to Block the Ban
- Texas Federal Court Blocks FTC's Non-Compete Ban Enforcement for Plaintiffs in the Case – With Potential for Broader Injunctions
- FTC Issues Final Rule Banning Non-Compete Agreements

2023

- FTC Issues Proposal to Ban Noncompete Agreements

ATTORNEYS/OTHER PROFESSIONALS

PRIMARY CONTACTS



GARY L. AYERS

Partner

T: 316.291.9530
gayers@foulston.com



CLAYTON J. KAISER

Partner

T: 316.291.9539
ckaiser@foulston.com



SCOTT C. NEHRBASS

Partner

T: 913.253.2144
snehrbass@foulston.com

FOULSTON

ATTORNEYS AT LAW

ADDITIONAL SUPPORTING MEMBERS



JEFF P. DEGRAFFENREID

Partner

T: 316.291.9788
jdegraffenreid@foulston.com



HOLLY A. DYER

Partner

T: 316.291.9773
hdyer@foulston.com



TARA EBERLINE

Partner

T: 913.253.2136
teberline@foulston.com



FOULSTON

ATTORNEYS AT LAW

JAY F. FOWLER

Partner

T: 316.291.9541
jfowler@foulston.com



JEFFERY A. JORDAN

Partner

T: 316.291.9513
jjordan@foulston.com



JEREMY E. KOEHLER

Partner

T: 316.291.9728
jkoehler@foulston.com



MICHAEL J. NORTON

Partner

T: 316.291.9743
mnorton@foulston.com

FOULSTON

ATTORNEYS AT LAW



SARAH C. OTTO

Partner

T: 913.253.2195
sotto@foulston.com



TONY F. RUPP

Partner

T: 913.253.2127
trupp@foulston.com



SHANNON D. WEAD

Partner

T: 316.291.9518
swead@foulston.com



MORGAN E. GEFFRE

FOULSTON

ATTORNEYS AT LAW

Associate

T: 316.291.9577
mgeffre@foulston.com



SARA O'KEEFE

Special Counsel

T: 913.253.2149
sokeefe@foulston.com