

## NONCOMPETE & TRADE SECRET LITIGATION

### OVERVIEW

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An April 2024 Federal Trade Commission ruling banning non-compete agreements nationwide and an immediate legal challenge to that ruling should bring non-compete agreements to the forefront for all employers, whether they have implemented non-compete agreements or may have other employment agreements which could act similarly to a non-compete. Regardless of the US Chamber of Commerce's and other challenges to the FTC rule, employers should take the opportunity to review their employment agreements broadly. Foulston's litigation and employment attorneys outlined the FTC ruling's impact on employers here.

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

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# 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

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### ARTICLES

**2021**

Plan #TheBigShift Carefully to Protect Yourself From #TheBigLawsuit

**2014**

Analyzing a Trade Secret Case in Kansas

## ISSUE ALERTS

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### 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

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