

The following was submitted as a public comment to the FTC on January 10, 2023:

I am writing in support of the proposed non-compete clause rule to restrict and/or eliminate non-competes from the workplace.

As a former employee of a company who compelled me to sign a non-compete, I can say with experience that non-compete clauses chain an employee to an employer for the long term if for no other reason that the employer is the one with the bigger financial pockets and can easily crush an employee into submission to the noncompete - whether or not the non-compete document has merit - with the threat of a lawsuit whether in current employ or post employment.

In my case, I was let go from my employment of 11-1/2 years mid-year in 2009 during the financial crisis. My employer (a lighting/audio/video production company in the New York City special events industry) was deeply in financial distress and seeking to cut expenses wherever possible. I was let go and my employer cautioned me that the non-compete was still in effect and that I should not seek employment with a firm that competed with the company.

At the time, I had spent virtually my entire professional life in the New York City theatrical and special events business. I owned an apartment with a wife and young child. The idea that I was to simply walk away from my profession and all of my professional contacts and colleagues was simply preposterous. I consulted with an attorney and was advised that I should go ahead and seek new employment - which I did and was successful. (I remain with this same company today 12+ years later).

In the late fall of 2009, my former employer served notice of a lawsuit and I spent the next year fighting back. I did not have the financial means readily available to do this but had no choice as I was in no place to move from New York City, the country was in deep recession, and the idea that I would have to change professions not only practically impossible but deeply unfair and unjust. I borrowed money from my father to pay the lawyer. In December of 2010, the matter was finally brought before a judge who ordered my former employer to provide financial proof that I had caused irreparable harm. My former employer chose to drop the lawsuit rather than pursue the case.

I spent \$35,000 in legal fees fighting him off for a year. This was a tremendous amount of money for me.

Non-competes in my opinion are on their face un-American, deeply unfair to the employee, and an unjust and unjustified restriction on a worker's rights to freely work with and for whomever offers the best possible employment. The employee has no financial ammunition - unless most likely assuming debt - in the face of a committed former employer who wishes to chase the employee from the profession.

Regardless of an employer's arguments that they have an inherent right to restrict their employee's right from seeking the best possible employment situation that is in their interests, I cannot agree in any manner whatsoever. Nothing can justify the assault on an employee to work where the offer is best. I am adamant in that opinion.

Thank you for your time. I urge support to all parties involved in implementing this rule that will restrict or eliminate non-competes from the American workplace wherever it may occur and regardless of profession or employee income.

Sincerely,

Richard Tatum
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