

# Partner Debbie Berman Discusses Ban on Noncompete Agreements with the *New York Times*, *Washington Post*

## News

April 23, 2024

After the Federal Trade Commission banned noncompete agreements for most US workers, Trade Secrets and Restrictive Covenants Practice Co-Chair Debbie Berman shared her insights with The Washington Post and The New York Times. The new rules make it illegal for employers to include such agreements in employment contracts and requires those employers with active noncompete agreements to inform their workers that these agreements are no longer valid.

The Washington Post quoted Debbie saying, “The uncertainty created by these rules and the future litigation creates a risky landscape for businesses as they try to protect their most valuable trade secrets and confidential information. I think we’ll see rapid movement by businesses to implement alternatives to noncompetes — such as non-solicitations agreements and deferred compensation plans — because they won’t take a gamble on protecting their proprietary information.”

The New York Times referenced litigation already filed in Texas to challenge the new rule. They wrote: “Debbie Berman, a management-side lawyer at Jenner & Block, said the two lawsuits filed in Texas were just the beginning. She said the question of the F.T.C.’s authority to ban noncompetes would probably come up in every lawsuit pertaining to such agreements going forward, and various courts were likely to reach different conclusions, making it ripe for the Supreme Court to weigh in. ‘This court has certainly signaled that it views agencies’ powers to be narrow and very tightly hewed to the legislation that they’re promulgating rules and regulations from,’ Ms. Berman said.”

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