



BENESCH OFFERING:

Flat Fee Restrictive Covenant Agreement Review for All 50 States

The Federal Trade Commission's ("FTC") proposed Rule to ban non-competition agreements has garnered significant legal and national media attention since the proposed Rule was published in early January. The attention is justified since, if enacted, the Rule will void millions of restrictive covenant agreements, including some restrictions that cover the sale of a business. Non-solicitation covenants and confidentiality agreements could also be voided under the broad language of the Rule. Although the Rule is certain to face significant legal challenges that may prolong and/or prevent its enactment, now is a good time for companies to take inventory of their restrictive covenant agreements. It is also a good time for companies to evaluate the enforceability of their restrictive covenant agreements since 27 states have made changes to their restrictive covenant laws in the last five years and 14 states have made changes to their restrictive covenant laws in the last two years. Given these changes and likely future changes (44 restrictive covenant bills were introduced in 19 state legislatures in the first two months of 2023), restrictive covenants that were legally enforceable two years ago may now be outdated and

unenforceable. Consequently, a review of your restrictive covenant agreements now (as opposed to when you need to go to court to enforce the restrictive covenants) makes practical, legal, business and economic sense.

Understanding the importance of having enforceable restrictive covenants that protect a company's trade secrets, client relationships, employee work force and other legitimate business interests, Benesch's Trade Secrets, Restrictive Covenants & Unfair Competition Group is offering a **\$600** flat fee review of a restrictive covenant agreement. The review will include:

- Identifying potential areas that may need refinement based upon changes to restrictive covenant laws in certain states;
- Developing new agreements and/or addendums that cover restrictions that are specifically limited by certain state laws;
- Identifying and developing consideration that is considered "adequate" under the restrictive covenant laws of certain states;
- Adopting and/or revising a "notice" provision that complies with the notice requirements of certain states for the onboarding and offboarding of employees.

Members of Benesch's Trade Secrets, Restrictive Covenants & Unfair Competition Group will also handle any other questions you may have regarding the enforceability of your restrictive covenants in certain jurisdictions.

Please contact Scott Humphrey at shumphrey@beneschlaw.com or 312.624.6420 if you are interested in this offering.