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## AAG to testify to Congress as AG Ferguson's anti-no-poach initiative reaches 155 corporate chains

### FOR IMMEDIATE RELEASE:

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*Due to success of initiative, AGO attorney will testify to U.S. House of Representatives subcommittee*

**SEATTLE** — Attorney General Bob Ferguson today announced that an Attorney General's Office attorney will testify tomorrow before Congress about his office's initiative to end no-poach clauses nationwide.

In addition to upcoming testimony, AG Ferguson today announced that the office has ended no-poach practices at dozens more corporate chains across the country. This brings the total number of corporate chains that have signed legally binding agreements with Ferguson to eliminate no-poach clauses from all their franchise agreements nationwide to 155, representing more than 160,000 locations.

No-poach clauses appear in franchise agreements between owners of franchises and corporate headquarters. The clauses prohibit employees from moving among stores in the same corporate chain, a practice that economists believe stagnates wages. For example, the clauses would prohibit an employee at one Ben & Jerry's location from accepting employment from another Ben & Jerry's franchise location for higher pay.

"In under two years, we've stopped the use of no-poach clauses at more than 150 corporate chains nationwide," Ferguson said. "Without no-poach clauses holding them back, millions of workers now have access to better mobility and pay. I look forward to sharing our success with Congress."

All 53 chains announced today have signed legally binding commitments to stop enforcing no-poach clauses, and to stop adding no-poach clauses to new franchise contracts. All must make these changes nationwide. In addition, they must amend existing franchise agreements in Washington state.



With today's announcement, Ferguson moves closer to his goal of eliminating no-poach clauses nationwide.

## Testimony before the U.S. House of Representatives

Assistant Attorney General Rahul Rao will testify before the U.S. House Judiciary Committee's Subcommittee on Antitrust, Commercial and Administrative Law. The subcommittee consists of 13 representatives, including U.S. Rep. Pramila Jayapal of Washington state.

In addition to other antitrust work of the office, Rao will discuss the success of the anti-no-poach initiative Ferguson began in January 2018. Rao will share the types of clauses the office has seen in companies across the nation, the effects these no-poach clauses could have on workers' wages and opportunities, and the wide range of industries that use these practices.

For example, the office has found that across the many industries they have investigated, approximately 65 percent of corporate chains include no-poach provisions in their franchise contracts.

Written testimony for the Attorney General's Office can be found [here](#).

## Success of anti-no-poach initiative

Ferguson continues to investigate and obtain legally enforceable agreements from companies to eliminate no-poach practices. The agreements announced today, filed in King County Superior Court, include companies within the restaurant, home repair, health care, cleaning services and fitness industries among others.

This group builds on Ferguson's announcement in October 2018 of the first corporations outside the fast-food industry anywhere in the country to enter into legally enforceable agreements with Ferguson or any other state attorney general to end no-poach practices. Ferguson will continue to pursue other corporate chains across a wide range of industries.

To avoid a lawsuit, the following corporate chains entered into legally binding commitments to eliminate no-poach clauses nationwide:

<b>Company name</b>	<b>Washington locations</b>	<b>Estimated U.S. locations</b>
1-800-Radiator	5	186
Allegra	3	223
AlphaGraphics	7	193
Ben & Jerry's	9	215
Best in Class	10	65
Bricks & Minifigs	3	38
Caring Transitions	10	175
Carstar	30	333
Club Z!	4	371
Costa Vida	8	96

<b>Company name</b>	<b>Washington locations</b>	<b>Estimated U.S. locations</b>
Dickey's Barbeque	19	564
Dutch Bros	53	292
Elmer's	4	29
Emerald City Smoothie	32	40
F45 Training	6	294
Fit Body Boot Camp	6	477
FujiSan	6	367
Fyzical	9	381
Glass Doctor	6	246
Global Recruiters	3	193
HealthSource Chiropractic	8	172
Hometeam Inspection Services	3	172
Huntington Learning	12	293
Image360	4	131
Johnny Rockets	4	175
Kiddie Academy	11	214
Kona Ice	14	1203
Maaco	16	456
Mac Tools	17	693
Molly Maid	17	246
Mr. Appliance	5	213
Mr. Electric	3	159
Mr. Handyman	5	215
Mr. Rooter	3	200
Novus	25	162
Palm Beach Tan	7	541
Pelindaba Lavender	6	14
Pillar To Post	22	499

<b>Company name</b>	<b>Washington locations</b>	<b>Estimated U.S. locations</b>
Pirtek	3	89
Property Damage Appraisers	10	650
PuroClean	6	247
Rainbow International	8	315
Real Property Management	6	281
Remedy Intelligent Staffing	3	73
Restoration 1	7	153
Signs by Tomorrow	2	85
Signs Now	2	82
Soccer Shots	5	227
The Joint Chiropractic	9	468
Urban Float	4	8
Waxing the City	4	117
Window Genie	3	131
World Inspection Network	24	176

These corporations will no longer include no-poach language in new franchise agreements. Additionally, the companies will no longer enforce no-poach provisions currently included in franchise agreements at approximately 13,600 locations across the country. Finally, the companies must remove current no-poach clauses from their Washington contracts in the next 60 to 120 days, and their nationwide contracts as they come up for renewal.

The companies' legally binding commitment ensures that all will remove no-poach clauses from existing franchise agreements and cannot use the clauses again in the future.

### **No-poach lawsuit**

In October 2018, Ferguson filed his first lawsuit against restaurant chain Jersey Mike's for its use of no-poach clauses. Unlike dozens of other corporate chains, Jersey Mike's refused to enter into a legally binding agreement to end these practices nationwide, and Ferguson filed a lawsuit against the company.

Ferguson resolved that lawsuit in August. In order to avoid trial, Jersey Mike's ultimately agreed to eliminate no poach clauses from all its corporate franchise agreements, and also paid the State of

Washington \$150,000. Had Jersey Mike's agreed to Ferguson's original offer, they would not have had to make any payment to the State of Washington.

## **Background on Ferguson's initiative to eliminate no-poach clauses**

As a result of Ferguson's initiative to eliminate no-poach clauses, 155 chains have signed legally binding commitments to end no-poach practices nationwide at an estimated 160,900 locations. The changes benefit millions of workers across the U.S.

The initiative began with a September 2017 article in the New York Times titled "[Why Aren't Paychecks Growing? A Burger-Joint Clause Offers a Clue.](#)" The article focused on the downward pressure no-poach agreements among fast-food franchises place on wages. After reading the article, Solicitor General Noah Purcell referred the subject to Attorney General Ferguson. The article cited research by Princeton economists Alan Krueger and Orley Ashenfelter highlighting the harms to workers caused by the practice.

Professors Krueger and Ashenfelter examined franchise agreements for 156 of the largest franchise companies in the United States. The franchise agreements for companies with more than 500 locations operating in the U.S. were analyzed for any language "restricting the recruitment and hiring of employees from other units within the franchise company."

The economists assert that "no-poach" clauses reduce opportunities for low-wage workers and stagnate wages, harming workers in Washington and across the nation.

In January 2018, Ferguson's Antitrust Division launched an investigation into no-poach clauses. The Attorney General's Office investigated the corporations on the economists' list to determine which fast-food companies used no-poach clauses and were present and employed people in Washington. Out of the original restaurants the Antitrust Division contacted, three chains — Hissho Sushi, Long John Silver's and Wendy's — did not use no-poach provisions in their franchise contracts.

In addition to the companies announced today, Ferguson negotiated an end to no-poach practices with 46 corporate chains in 2018, including McDonald's, Anytime Fitness, Sport Clips and La Quinta. Ferguson's initiative has continued this year with 109 more chains. For more information, [click here](#).

In September 2018, Ferguson [announced](#) that he was expanding his investigation to industries beyond fast-food restaurants, starting with all the remaining companies on Krueger and Ashenfelter's list. Ferguson also announced that he was beginning to investigate fast-food chains that economists Krueger and Ashenfelter did not include in their analysis because they have fewer than 500 stores nationwide. The first chains outside of the restaurant industry to end no-poach practices included gyms, automotive services and convenience stores.

Corporate chains that do not agree to end the practice face a lawsuit from Ferguson's office.

The investigation continues across several industries that utilize no-poach clauses in their franchise contracts, including automotive services, cleaning services, home healthcare services and parcel services, among others.

Since the investigation began in early 2018, Ferguson's Antitrust Division has successfully negotiated an elimination of no-poach clauses at 155 companies nationwide, including those announced today.

Senior Assistant Attorney General Jonathan Mark and Assistant Attorneys General Eric Newman, Rahul Rao and Justin Wade of the Attorney General's Antitrust Division are leading the no-poach

initiative.

The Office of the Attorney General's Antitrust Division is responsible for enforcing the antitrust provisions of Washington's Unfair Business Practices-Consumer Protection Act. The division investigates and litigates complaints of anticompetitive conduct and reviews potentially anticompetitive mergers. The division also brings actions in federal court under the federal antitrust laws. It receives no general fund support, funding its own actions through recoveries made in other cases.

The Antitrust Division investigates complaints about potential anti-competitive activity. For information about filing a complaint, visit <https://fortress.wa.gov/atg/formhandler/ago/AntitrustComplaint.aspx>.

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*The Office of the Attorney General is the chief legal office for the state of Washington with attorneys and staff in 27 divisions across the state providing legal services to roughly 200 state agencies, boards and commissions. Visit [www.atg.wa.gov](http://www.atg.wa.gov) to learn more.*

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