

AG Platkin: No-Poach Agreements Are Presumptively Illegal

New Jersey Leads Filing of Amicus Brief to Protect Workers From Unfair and Anticompetitive Labor Practices

For Immediate Release: October 23, 2023

[Office of the Attorney General](#)

– Matthew J. Platkin, *Attorney General*

[Division of Law](#)

– Michael T.G. Long, *Director*

For Further Information:

Media Inquiries-

Allison Inerro, OAGpress@njoag.gov

[Amicus Brief](#)

TRENTON – Attorney General Matthew J. Platkin led a coalition of Attorneys General from eighteen states and the District of Columbia in filing an amicus brief urging the U.S. District Court for the District of New Jersey to rule that the “no-poach” provisions used by the tax preparation chain Jackson Hewitt in its franchise agreements are presumptively unlawful. No-poach agreements between companies restrict the rights of workers to move from one job to another. The coalition argues that such agreements violate antitrust laws and harm workers. “No-poach contracts are anticompetitive,” **said Attorney General Platkin**. “They unfairly restrict workers’ future job prospects, limit their career mobility, and lower their earning potential. Contrast that dismal picture with a competitive labor market, where companies must compete for workers by offering higher compensation and improved terms and conditions in the workplace.”

The plaintiffs in the proposed class action are former tax preparers who say they were harmed by Jackson Hewitt’s no-poach agreements. Those agreements prohibited corporate-owned and franchise locations from hiring each other’s workers. The multistate coalition argues that these agreements are “naked” horizontal restraints of trade because Jackson Hewitt and its franchisees are direct competitors in the labor market to hire tax preparers. No-poach agreements of this type are recognized as harmful, anticompetitive restraints and, therefore, should be considered presumptively unlawful, the amicus brief argues. Jackson Hewitt is unlikely to demonstrate the no-poach agreement is reasonably necessary due, in part, to the breadth and scope of the restrictions it places on workers.

The brief continues Attorney General Platkin’s efforts to advocate for workers’ rights and fight unlawful practices in the labor market. New Jersey has worked with other multistate coalitions to advocate for the application of per se scrutiny to anticompetitive no-poach agreements, defended New Jersey’s worker protection laws, stood up for gig workers, and promoted workers’ rights around the country. Earlier this year, [New Jersey co-led](#) a multistate letter with the District of Columbia and California in support of the Federal Trade Commission’s proposed rule that would eliminate non-compete clauses in employment contracts in most circumstances. [In 2020](#), New

Jersey entered into multistate settlement agreements with three major fast-food companies, with each company agreeing to stop using no-poach contracts.

Attorney General Platkin is joined on this amicus brief by the Attorneys General of Arizona, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New York, North Carolina, Oregon, Pennsylvania, and Rhode Island.

The State is represented in this matter by Deputy Attorneys General Viviana Hanley, Leslie Prentice, and Bryan Sanchez, and Consumer Fraud Prosecution Assistant Section Chief Isabella Pitt, under the supervision of Assistant Attorney General Brian F. McDonough of the Division of Law's Affirmative Civil Enforcement Practice Group.

The Office of the Attorney General investigates violations of the New Jersey Antitrust Act to prevent restraints of trade and to promote competition in the State of New Jersey. Attorney General Platkin invites workers who believe their rights have been violated to [file a complaint](#) by visiting the Attorney General's Complaint Portal.