

In Alabama, Non-Competes Must be Executed On or After an Employee's Start Date

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Applying Alabama law, the Eleventh Circuit issued an opinion that found Alabama's statute prohibiting restraints on trade prohibits the enforcement of a non-compete agreement executed just prior to an employee's start date. The statute, Alabama Code Section 8-1-1, contains an exception that makes non-compete agreements in Alabama enforceable within the employer/employee context. But the court, affirming the district court's denial of the employer's motion for a temporary restraining order, found the exception inapplicable to a situation where the employer/employee relationship had not yet begun. In this case, the employee signed the non-compete covenant only *four days* before his employment began. This opinion should encourage Alabama employers to ensure that their new employees execute their non-compete covenants *on or after* their start dates. Employers in other states where restraints on trade are generally prohibited with limited exceptions should also take note.*Alabama, and the Eleventh Circuit, have signaled that these exceptions may be quite narrowly construed. *Colorado, for instance, has a statute similar to Alabama's. Florida's statute, on the other hand, is framed differently; it finds restraints of trade generally *permissible*, with some exceptions. *Dawson v. Ameritox, Ltd.*, 571 Fed. Appx. 875 (11th Cir. 2014)

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