

46th Annual Corporate Counsel Institute

May 8-9, 2024 Houston, Texas

Presented by: Gary Eisenstat

Ogletree Deakins (Dallas)

2024 Employment Law Update



**Ogletree
Deakins**

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TODAY'S AGENDA

- **Judicial Update:** Supreme Court and 5th Circuit Cases
- **Federal Agency Rules and Laws:**
 - **FTC:** Non-Compete Rules
 - **DOL:** Wage and Hour Update
 - **NLRB:**
 - Latest on *McLaren* Decision and GC Memo 23-05
 - Joint Employer Update
 - **EEOC:** New Harassment Guidance
 - **Pregnant Worker's Fairness Act and Rules**
- **Texas Legislation:**
 - Ban on Vaccine Mandates/Crown Act/Workplace Violence Prevention

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Supreme Court and 5th Circuit Update

- Muldrow v. City of St. Louis (S. Ct. 2024)

Held: Job transfer can still be actionable even with no change in title, salary, or benefits, *if* the transfer brings “some” harm—need not be “significant.”

- Hamilton v. Dallas County (5th Cir. 2023)

Held: A change in terms and conditions of employment short of an “*ultimate employment decision*” can be actionable. (Title VII *only*, not TCHRA)

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Federal Rules and Laws



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Federal Trade Commission -Noncompetes

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FTC Rule BANNING Non-compete clauses:

- **April 23** – FTC voted 3-2 to approve the final regulations.
- Covers noncompetes, broad nondisclosure agreements, training cost repayment agreements, and potentially nonsolicits.
- Would go into effect **August 21** if not stayed.
- Permissible to enforce certain noncompete clauses where the cause of action accrued **before** the effective date of the rule, but not after.

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