



# What Trump's Termination of 2 Democrat FTC Commissioners Means for Employers

Insights

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The president's dismissal of two Democrat Commissioners of the Federal Trade Commission (FTC) continued his unprecedented attempts at reshaping federal agencies to better carry out his agenda – but what does it mean for employers? The March 18 terminations of Alvaro Bedoya and Rebecca Kelly Slaughter might be unmatched in the history of the FTC but are not too surprising given President Trump's recent firings of leaders at the National Labor Relations Board (NLRB) and Equal Employment Opportunity Commission (EEOC). Given the growing influence the FTC has over workplace law, you need to know about these personnel actions and how they might impact the workplace.

## Why Should Employers Care About the FTC?

At first glance, the FTC may not seem like a major player in workplace law. But while you may think the agency focuses solely on consumer protection, it has increasingly expanded its reach into employment-related issues in the past several years. Here are some key areas of impact:

- **Non-Competes and Restrictive Covenants** – Under the Biden administration, the FTC aggressively pursued a ban on non-compete agreements, arguing that they suppress wages and limit job mobility. And while the ban was struck down for all employers nationwide last summer, the agency just announced plans for a Joint Labor Task Force to scrutinize workplace agreements and other actions.
- **Antitrust in the Labor Market** – The FTC teamed with the DOJ to scrutinize no-poach agreements and alleged wage-fixing schemes, treating them as potential antitrust violations.
- **Employee Data Privacy and AI** – The FTC has played a growing role in regulating how employers collect, store, and use employee data – particularly when AI-driven tools are involved. The agency previously pushed for stronger protections, including crackdowns on surveillance tech in hiring and workplace monitoring. In fact, a complaint about common AI hiring tools is pending with the agency right now.
- **Gig Economy and Worker Classification** – The FTC has signaled concerns over misclassification of gig workers, targeting practices that allegedly exploit independent contractors.

And, of course, consumer protection remains a priority for the agency as well. Its focus has led to regulations such as the recent Click-to-Cancel rule that will impact most employers with a digital

regulations such as the recent order to declassify that will impact most employers with a digital presence.

## **What Just Happened?**

On March 18, President Trump removed Bedoya and Slaughter, the two Democrat commissioners of the FTC. The commissioners say they were notified of their dismissal via an email from the White House personnel office, which stated that their continued service was “inconsistent with the administration’s priorities.”

With the firings, the FTC is now left with two Republican commissioners: Chair Andrew Ferguson and Commissioner Melissa Holyoak. The president has nominated a third Republican, Mark Meador, to fill one of the vacancies, which would solidify conservative control over the five-member agency. However, President Trump can’t stack the FTC beyond that. Under the rules Congress put in place to govern the FTC, no more than three commissioners can come from the same political party.

## **How Do These Firings Fit into the Larger Picture?**

The move is part of a broader effort by the Trump administration to assert greater control over independent federal agencies. As noted, the president recently carried out similar unprecedented terminations at the NLRB and the EEOC, among several other agencies.

## **What Do the Firings Mean for the FTC?**

Unlike the NLRB and the EEOC, however, the FTC can technically continue to pursue enforcement actions and other regulatory activity with only two commissioners in place. However, the legitimacy and authority of any FTC actions that take place in the coming weeks and months may face heightened scrutiny given the legal uncertainty surrounding the terminations.

## **What Legal Uncertainty?**

The spate of agency leader terminations has already sparked a legal challenge over the issue of agency independence that seems destined for a relatively quick resolution at the U.S. Supreme Court in the coming months. A federal court has already reinstated Gwynne Wilcox, the dismissed NLRB member, setting the stage for a broader showdown over the limits of presidential removal power.

And it appears that both Bedoya and Slaughter might be jumping on the same bandwagon. They quickly denounced their firings as illegal, citing Supreme Court precedent that they believe shields FTC commissioners from removal without cause. “The president just illegally fired me,” Bedoya said in a social media post. Slaughter echoed this view, stating that their dismissals violated federal law. Both have indicated they may challenge their terminations in court.

**[Ed. Note: The two fired commissioners indeed filed a lawsuit challenging their terminations on March 27.]**

## What Comes Next?

With the FTC now under firm Republican control, you should prepare for potential shifts in enforcement priorities, legal battles, and regulatory strategies. While the immediate focus will be on the legal challenges to these firings, the long-term impact will be felt in how the agency approaches workplace-related regulations.

### ***Legal Battles Over Presidential Authority***

The biggest unknown is whether the courts will reinstate the fired commissioners or uphold the president's authority to remove them. Several factors will shape this fight:

- **The *Humphrey's Executor* Precedent:** A 1935 Supreme Court ruling, seemingly restricts the president's ability to fire FTC commissioners without cause – will it withstand the current legal challenge?
- **Recent Court Trends:** The Supreme Court has chipped away at limits on executive power in recent years, but it declined to rule on a similar case involving the Consumer Product Safety Commission earlier this year.
- **NLRB Case as a Test Run:** As noted above, a federal court has already reinstated Gwynne Wilcox, the dismissed Democrat NLRB member, and an appeal over that decision is rocketing towards a date with SCOTUS. If the Supreme Court upholds *Humphrey's Executor* and reinstates Wilcox, it could provide a legal framework for reinstating Bedoya and Slaughter at the FTC.

### ***Changes in FTC Enforcement Priorities May Not Be as Significant as Once Thought***

Eventually, the FTC will have a conservative majority regardless of the outcome of the court battles. When that comes to pass, it appears that the FTC will continue to scrutinize competition in the labor market, as the FTC did under the Biden administration.

- **Non-Compete Ban Likely Dead:** Commissioners Ferguson and Holyoak issued scathing dissenting statements when the FTC passed the non-competes ban last year, so we expect the FTC will dismiss the two appeals in the 5th and 11th Circuits fighting over the legality of the ban.
- **Antitrust Enforcement Will Still Focus on the Labor Market:** There is one thing on which the Biden and Trump FTC leaders agree -- the agency has authority to regulate the labor market and prevent unfair competition for workers. The FTC's recently announced Joint Labor Task Force will identify and prosecute labor-market practices the FTC deems to be harmful to workers.
- **Consumer and Employee Privacy Focus May Shift:** Previous leadership prioritized stricter oversight of workplace data practices, AI hiring tools, and digital consumer protections. A conservative-led FTC may soften these efforts in favor of a more pro-business stance.

## Employer Takeaways

While the FTC's future remains uncertain, employers should keep an eye on:

- ✓ **Legal challenges to the firings**, as they could reshape executive power over independent agencies. Make sure to [sign up for FP's Insight System](#) to ensure you get the latest news directly to your inbox.
- ✓ **Changes in FTC guidance and enforcement actions**, especially regarding non-competes, labor antitrust, and workplace data privacy.
- ✓ **State-level developments**, since states may step up enforcement if federal efforts wane. Consider signing up for [Blue Pencil Box](#) to receive daily updates on restrictive covenant law across the country.
- ✓ **Potential business-friendly shifts**, which could ease compliance burdens in some areas but introduce new uncertainties in others.

## Conclusion

We will continue to monitor developments that impact your workplace and provide updates as warranted. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information, and check out [Blue Pencil Box](#) updates on restrictive covenant law. If you have any questions, please contact your Fisher Phillips attorney, the authors of this Insight, or any member of our [Employee Defection and Trade Secrets Practice Group](#). And make sure to visit our [New Administration Resource Center for Employers](#) to review all our thought leadership and practical resources.

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