



News & Types: Employment, Labor & Benefits Update

# Masuda Funai Employment Newsflash – Companies Cannot Agree Not to Hire Each Other's Employees

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On July 9, 2021, President Biden issued an executive order that called on the Department of Justice and the Federal Trade Commission to “enforce the antitrust laws vigorously.” On Thursday, July 15, 2021, a federal grand jury in Denver returned a two-count indictment charging a company and its former CEO for conspiring with competing employers not to solicit certain employees in violation of the Sherman Antitrust Act. As noted in the “Antitrust Guidance for Human Resource Professionals,” that was issued in October 2016 by the Department of Justice Antitrust Division and the Federal Trade Commission, companies are prohibited from entering into agreements about employee hiring, compensation, or other terms or conditions of employment. Depending on the facts of a case, the Department of Justice could bring criminal prosecutions against individuals, the company, or both. If an employee believes he or she was injured by the illegal agreement between two or more companies, the employee could bring a civil lawsuit against individuals, the company, or both.