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FP'S TOP 2026 PREDICTIONS FOR EMPLOYEE DEFECTION AND TRADE SECRETS

Insights
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Our Employee Defection and Trade Secrets thought leaders have pulled together their top predictions for the new year so that employers can get a running start to 2026. If you want more, register for our FP Forecast 2026 Webinar here.

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The FTC Isn't Done – Healthcare Will Become Ground Zero

Even with a scaled-back agenda, the FTC will target non-competes and mobility-restricting agreements in healthcare, including B2B no-hire arrangements. Expect more enforcement actions focusing on competition in the labor market even without a federal non-compete ban.

Noteworthy Local Trends Will Reshape the Landscape

2026 will bring major local developments that create real compliance headaches for multi-state employers:

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- **Florida's CHOICE Act** will produce its first mandatory injunctions, raising fights over how federal courts apply state substantive law versus federal procedure.

- **New York City** will ban non-competes, setting up a jurisdictional clash with the state legislature.

- California courts will **clarify the reach of its non-compete ban** and confirm that California employers can still enforce lawful restrictive covenants in other states where they're permitted.

AI Will Become a Central Player in Trade Secret Battles

Trade secret litigation will increasingly revolve around AI systems. We'll see AI notetaker transcripts, voice records, and auto-summaries will become critical discovery material. Employees departing with custom AI agents or model-trained assets will give rise to new misappropriation claims. And courts will wrestle with ownership questions involving model weights, training sets, and AI-generated engineering artifacts. This means employers will need stronger controls around AI-enabled workflows, clearer IP assignments, and updated exit protocols.

> **Want More?**
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> - You can read our entire **FP Forecast 2026 here**, full of predictions spanning many practice areas and industries
>
> - **You can register for our FP Workplace Law Forecast 2026 Webinar here**.

Conclusion

We will continue to monitor developments related to all aspects of workplace safety law. Make sure you are subscribed to **Fisher Phillips' Insight System** to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any member of our **Employee Defection and Trade Secrets Team**.

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