

DOJ Secures First Jury Conviction in Criminal Wage-Fixing Case in Nevada

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In an historic jury verdict on April 14, 2025, the U.S. Department of Justice's Antitrust Division secured its first-ever jury conviction for criminal wage-fixing in violation of Section 1 of the Sherman Act. For several years, the DOJ Antitrust Division had suffered a string of setbacks—with judges and juries alike—in its effort to criminally prosecute wage-fixing and “no poach” agreements between competitors in the labor market. But a federal jury in Las Vegas, Nevada, reversed that trend by convicting Eduardo Lopez for his involvement in a three-year conspiracy to fix the wages of home healthcare nurses in the Las Vegas area, among other crimes.

The jury's verdict—which followed a 15-day trial—could have significant implications for business leaders and in-house counsel, particularly in the health care sector where the DOJ has focused much of its criminal wage-fixing enforcement efforts. In short, companies that participate in competitive local labor markets should be extremely careful if and when they discuss employee wages and hiring practices with competitors.

FEDERAL ENFORCERS' MIXED RECORD IN LABOR COMPETITION

In recent years, antitrust regulators (both state and federal) have increasingly homed in on competition in labor markets as a key focus for enforcement action. Federal enforcers have closely scrutinized agreements between labor market competitors to set wages or not to solicit or “poach” each other's employees. In December 2020—more than 100 years after the Antitrust Division was founded (in 1919)—the DOJ recorded its first-ever criminal indictment for wage fixing. The Antitrust Division indicted the owner of a Texas therapist-staffing firm who allegedly conspired to fix the wages of physical therapists. ([See here for our prior blog post on the indictment](#) and [here for our blog post on the challenges facing the constitutionality of such indictments](#)). On the civil side, federal antitrust enforcers have similarly placed an increasing focus on labor competition. For example, the DOJ [successfully blocked the merger](#) of two of the nation's largest book publishers, Penguin Random House and Simon & Schuster, on the theory that the merger would have harmed top-selling authors in the labor market. And the Federal Trade Commission promulgated a rule banning non-compete clauses in contracts with employees and other workers, which a [Texas federal court](#) ultimately blocked from going into effect. ([See here for our prior blog post on the FTC's attempted ban on non-competes](#)).

Despite the renewed focus on labor market competition, the DOJ's criminal enforcement program aimed at labor markets has struggled to gain traction with judges and juries. Between 2020 and 2022, the DOJ brought a total of

six criminal no-poach and wage-fixing cases. Of these, the four cases that went to a jury all resulted in acquittals on the antitrust charges, while the DOJ voluntarily dismissed another case before trial (one case was resolved with guilty pleas). For example, in April 2022, a Colorado jury acquitted the kidney dialysis company DaVita and its former chief executive in a case alleging they conspired with three other companies not to hire one another's senior-level employees. ([See here for more information on Winston & Strawn's involvement in the trial](#)). Federal juries in Maine (*United States v. Manabe*) and Texas (*United States v. Jindal*) similarly returned not-guilty verdicts on wage-fixing and no-poach charges following lengthy trials. And in *United States v. Patel*, after the DOJ presented testimony to the jury for nearly a month against jet-engine executives who allegedly had agreed not to solicit each other's engineers, the federal judge in Connecticut overseeing the trial threw out the charges—and granted a judgment of acquittal in favor of the defendants—before the defense put on its case.

THE LOPEZ CASE GIVES THE DOJ ITS MOST SIGNIFICANT VICTORY IN THE LABOR MARKET SPACE

In the midst of the string of losses described above, the DOJ indicted Lopez in March 2023, alleging that he conspired to fix the wages of Las Vegas nurses. On April 14, 2025, the jury found Lopez guilty of conspiring to artificially cap the wages of home healthcare nurses in the Las Vegas area between March 2016 and May 2019. At the time, Lopez oversaw recruitment, hiring, and assignments of nurses at three separate companies. The DOJ alleged that Lopez met with his co-conspirators—employees at competitor home healthcare agencies—and subsequently texted one another that they had reached a “mutual agreement” to “stay within the same hourly rate” as each other, including agreeing to limit pay for Registered Nurses to \$30 per hour and Licensed Practical Nurses between \$21 and \$23 per hour. The DOJ presented evidence to the jury that the conspiracy affected the wages of hundreds of registered nurses and licensed practical nurses.

After a 15-day trial, the jury unanimously convicted Lopez of one count of participating in a wage-fixing conspiracy and five counts of wire fraud. His sentencing is scheduled for July 14. Criminal convictions under the Sherman Act carry a maximum penalty of 10 years in prison and \$1 million fines for individuals. See 15 U.S.C. § 1.

TAKEAWAYS FOR BUSINESS LEADERS AND IN-HOUSE COUNSEL

It is an open question whether the DOJ's new leadership under the Trump administration will consider pursuing wage-fixing and no-poach criminal prosecutions, particularly since the DOJ has brought no more indictments focusing on labor markets in two years. The jury's conviction in *Lopez*, however, may renew the DOJ's interest in pursuing these cases. After the *Lopez* verdict, Gail Slater, the new Assistant Attorney General for the DOJ Antitrust Division ([see our earlier blog post following Slater's confirmation here](#)), heralded the verdict and signaled more criminal enforcement efforts could be ahead: “Today's verdict highlights what should be a clear message with antitrust crimes: the agreement is the crime. The Antitrust Division will zealously prosecute those who seek to unjustly profit off their employees. The nurses here deserved better and, under President Trump's leadership, they will be protected.”

Business leaders should take heed. Agreements between competitors to artificially cap wages—or agreements between competitors not to hire each other's employees—could well attract DOJ scrutiny, even in small or localized markets. And as the jury's verdict in the *Lopez* case shows, DOJ criminal prosecutions can result in convictions where the facts show a clear wage-fixing agreement that had a concrete effect on workers. Companies that compete for employees in competitive labor markets should consult with antitrust counsel to ensure they are steering clear of trouble and have appropriate compliance programs in place.

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