

Passing the Laboring Oar? What's to Come for No-Poach and Wage-Fixing Prosecutions

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March 16, 2025, 7:25 PM

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It's been two years since the Antitrust Division brought its most recent — and only pending — criminal case involving labor markets.

Criminal Labor Cases Indicted by Year					
2020	2021	2022	2023	2024	2025
1	4	1	1	0	0

The two-year pause may be telling. It could indicate that prosecutors are picking and choosing their cases more carefully. It could also point to difficulties in building labor cases with compelling evidence and jury appeal but without legal complexities.

Newly appointed Assistant Attorney General Gail Slater has made clear that “protecting workers” will be a priority for her, just as it was for her predecessors. FTC Chair Andrew Ferguson also announced a task force to examine labor-market competition, which includes using the FTC’s civil enforcement authority to protect workers from per se violations that the FTC has, at least recently, left to criminal prosecutors at DOJ.

But how the continued prioritization of conduct affecting workers will translate into criminal charges, which have already become fewer and farther between, remains to be seen.

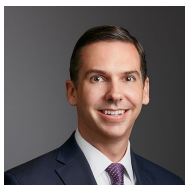
The first indication will come from trial in the only pending labor case, *United States v. Lopez*. *Lopez* was first charged two years ago in March 2023 and is set for trial later this month. According to DOJ, Lopez conspired to suppress wages for nurses and also failed to disclose he was subject to criminal investigation when he sold his company, prompting the addition of fraud charges.

We'll soon know whether a jury believes the Division can prove these allegations beyond a reasonable doubt. Another acquittal may prompt further pause and consideration before the next labor-related charges. Or it may not. In [recent comments](#), the new head of the Division's criminal program said that he wants to "be aggressive" and avoid taking too long to bring cases. So prosecutors could choose to follow a not-guilty verdict by trying again. Trying again would mean not only new charges against a new defendant before a new judge and jury, but the Division's first new criminal labor charges in two years.

“There are clear through lines from the tenures of AAG Delrahim, to AAG Kanter, to the antitrust policies of this Administration, on issues such as the importance of protecting workers.” – Gail Slater, Assistant Attorney General.



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