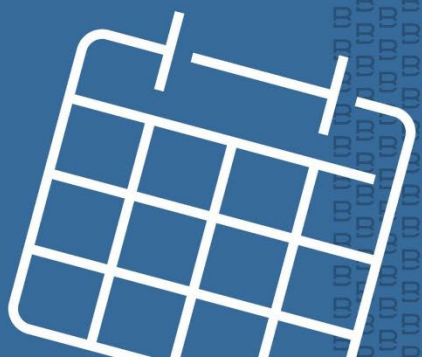
The Work Week

News from the Bassford Remele Labor & Employment Practice Group



November 2, 2026

After the Noncompete Ban: Minnesota Supreme Court Takes Up the Reach of Restrictive

Cassandra M. Jacobsen

When Minnesota banned nearly all noncompetes in 2023, employers turned the tools that remained to protect their confidential information and customer goodwill, such as confidentiality and non-solicitation clauses. But the statute didn't say how far those covenants can reach.

On October 21, 2026, the Minnesota Supreme Court accepted a question certified by the U.S. District Court for the District of Minnesota in *Ballast Advisors, LLC v. Peterson*, No. 23-CV-3769 (PJS/JFD), 2026 WL 2937461 (D. Minn. Sept. 30, 2026). The certified question asks whether an employer can stop a financial advisor from serving former clients who follow the advisor on their own, without any solicitation, or whether that restriction violates public policy and is unenforceable.

In 2022, Ballast, a wealth-management firm, required its advisors to sign a new employment agreement. One advisor, Scott Peterson, signed in September 2022 and resigned in February 2023. The clause labeled "Non solicitation" contained two distinct restrictions, each running for two years after departure: (1) a non-solicitation provision, barring Peterson from directly or indirectly soliciting Ballast clients to do business with a competitor; and (2) a non-service provision, barring Peterson from providing competing services to any Ballast client, whether or not he solicited or even contacted that client. Peterson went on to provide investment services to several dozen former Ballast clients, and Ballast sued to enforce the restrictive covenants.

While Minn. Stat. § 181.988 voids virtually every covenant not to compete entered on or after July 1, 2023, it expressly leaves nondisclosure and non-solicitation agreements intact. Peterson's agreement predates the ban, so the statute does not reach the clause. Employers should still pay attention. The certified question turns on public policy, not the statute, and the answer is unlikely to stay confined to Peterson's agreement. It may shape how courts view any non-solicitation clause that, in practice, keeps a client from following a departed fiduciary. If the Court recognizes client choice as a public-policy limit, employers should anticipate that departing employees will

argue that broad non-solicitation and confidentiality clauses are non-service restrictions in disguise, even in agreements signed after July 1, 2023.

Key Takeaways for Minnesota Employers

- **Take a fresh look at the covenants you still use.** Now that noncompetes are largely off the table, confidentiality and non-solicitation clauses are doing most of the work. A ruling in Ballast could limit how far client-based restrictions can go, especially for fiduciaries.

- **Distinguish between "don't solicit" from "don't serve."** A clause that only bars a departing employee from soliciting former clients is on safer ground than one that bars the employee from serving a client who seeks them out on their own. If your agreements include non-service language, they should be reviewed.

- **Watch fiduciary relationships.** The question before the Court is about client choice in relationships built on trust, such as those with financial advisors and, potentially, other fiduciaries. If you work in advisory, professional, or client-service fields, non-solicits could be subject to closer scrutiny.

- **Do not assume older covenants are safe.** Even agreements signed before the noncompete ban are still subject to Minnesota's common-law public-policy limits, and this case may change how those limits apply.

What could the Court's decision mean for your business? Whether you have questions about an existing agreement or how to distinguish non-solicitation from non-service restrictions, the Bassford Remele Labor and Employment Group welcomes the conversation. Contact us to discuss your concerns and how your restrictive covenants align with the interests you want to protect.

Learn About Our Labor & Employment Practice

Copyright © 2026 Bassford Remele, All rights reserved.