

Insights

FEDERAL COURT STRIKES DOWN FTC'S NON-COMPETE BAN

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Employers can breathe a sigh of relief as a Texas federal judge set aside the Federal Trade Commission's (FTC) impending ban on non-compete clauses.

The FTC published a final rule banning all non-compete clauses with workers in the United States going forward. The rule also would have prohibited the enforcement of existing non-compete clauses, except for existing agreements with "senior executives." The rule was slated to take effect on September 4, 2024.

On August 20, 2024, in *Ryan LLC v. Federal Trade Commission*, the Northern District of Texas set aside the FTC's non-compete rule as unlawful. The court found that the FTC exceeded its statutory authority in creating the rule and that the rule was an arbitrary and capricious "categorical ban." The court rejected the FTC's argument that relief should be limited to the named plaintiffs, holding that the Administrative Procedure Act "does not contemplate party-specific relief." Therefore, the court's decision prevents the rule from taking effect nationwide.

Employers may continue using and enforcing non-compete agreements in line with state law. However, non-competes remain under attack. The FTC has expressed interest in appealing the ruling and noted that the court's decision does not prevent the FTC from addressing non-competes in case-by-case enforcement actions. Many states have also passed or proposed legislation restricting the use of workplace non-competes. Therefore, employers should consult with attorneys to ensure that their non-compete agreements remain enforceable.

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