

TEXAS JUDGE BARS IMPLEMENTATION OF FTC'S FINAL RULE BANNING NON-COMPETES

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Latest Update: On October 18, 2024, the FTC filed a notice of appeal to challenge the August 2024 ruling by the U.S. District Court for the Northern District of Texas in *Ryan LLC v. Federal Trade Commission* that blocked the FTC's final rule implementing the noncompete ban. The challenge will be heard by the Fifth Circuit Court of Appeals. Until then, the FTC noncompete ban remains enjoined by the *Ryan* case.

We have previously reported on the Federal Trade Commission's ("FTC") Final Rule (the "Rule") that sought to prohibit companies from imposing new or enforcing existing non-compete agreements or similar provisions that function to prevent workers from seeking or accepting competing employment or operating a competing business after their employment ends.

The Rule was immediately challenged in several lawsuits. Last month, the U.S. District Court for the Northern District of Texas, in *Ryan LLC, et. al v. FTC*, 3:24-CV-00986, had issued an injunction enjoining the FTC from enforcing the Rule, but only as to the parties involved in that particular lawsuit. However, the U.S. District Court for the Eastern District of Pennsylvania, in *ATS Tree Services, LLC v. FTC*, 2:24-CV-01743, refused to issue an injunction barring enforcement of the Rule. These inconsistent decisions led to our most recent Client Alert on August 5, 2024 that advised companies to prepare for the Rule's looming September 4, 2024 effective date.

On August 20, 2024, the *Ryan LLC* Court entered an order blocking the Rule nationwide, determining that the regulation was beyond the FTC's statutory authority and that the Rule was arbitrary and capricious.

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As a result of this ruling, the Rule has been declared unenforceable and will not take effect on September 4, 2024. For now, existing non-compete agreements remain valid and enforceable to the same extent they were prior to the enactment of the Rule, and companies are not restricted from entering into future non-compete agreements with workers.

The FTC has stated that it may appeal the Texas court's ruling, so some uncertainty remains.

We will continue to provide updates on the Rule as events warrant.