

Employment

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BREAKING Non-Compete News: Texas Federal Court Stops FTC Non-Compete Ban from Taking Effect Nationwide

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In one of the most highly anticipated employment law decisions this year, on Aug. 20, 2024, the United States District Court for the Northern District of Texas ordered that the Federal Trade Commission's (FTC) broad non-compete ban (the Non-Compete Final Rule) is unlawful and shall **not** take effect on Sept. 4, 2024, as had been scheduled. The decision applies nationwide, meaning the FTC's Non-Compete Final Rule cannot be enforced for employers anywhere in the United States.

As we most recently summarized [here](#), legal challenges to the Non-Compete Final Rule have been raging all summer in different venues, including federal courts in Texas, Pennsylvania, and Florida, with various preliminary outcomes so far. In this specific Texas case, *Ryan, LLC v. FTC*, the Texas federal district court signaled in July that it was likely to block the Non-Compete Final Rule when it granted preliminary relief enjoining the FTC from implementing or enforcing the Non-Compete Final Rule as to the named plaintiffs and plaintiff intervenors in the case (the Plaintiffs). Shortly thereafter, the Plaintiffs filed motions for summary judgment, with the FTC filing a cross-motion for summary judgment.

In its Aug. 20 decision, the Texas federal district court granted the Plaintiffs' summary judgment motion and denied the FTC's summary judgment motion, holding that the FTC lacked the statutory authority to promulgate the Non-Compete Final Rule, and that the Non-Compete Final Rule was arbitrary and capricious.

As to the scope of the relief, the Court rejected the FTC's argument that it should be limited to the named Plaintiffs, reasoning that setting aside agency action under the pertinent section of the Administrative Procedure Act has nationwide effect, is not party-restricted, and affects persons in all judicial districts equally.

The Texas court's decision to issue a final judgment makes its order appealable. As a result, it is extremely likely that the FTC will appeal the Court's ruling, and ongoing legal challenges in this arena are anticipated. However, for now, non-compete proponents can breathe a huge sigh of relief as the Non-Compete Final Rule is blocked for the foreseeable future, and employers will not be required to send notices to employees invalidating their non-competes. Of course, employers are still required to comply with applicable state law, and the potential for state legislatures, including in New York, to pursue their own legislative agenda is expected.

Lowenstein Sandler's Executive Compensation, Employment & Benefits Group is monitoring the status of the Non-Compete Final Rule closely and would be pleased to speak with you about these developments.

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