



FTC Ban Poised for Fourth of July Fireworks

Client Advisories

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There has been a flurry of activity and plenty of media attention since the Federal Trade Commission (“FTC”) voted on April 23, 2024 to adopt its Non-Compete Clause Rule banning most new and existing non-competes between employers and workers (“the Ban”), except for those already existing with senior executives. But what may have been missed is the recent revelation that we will learn by July 3 whether the FTC’s Ban will be stayed. While not as dramatic as Will Smith’s alien encounter in the Bonneville Salt Flats in the movie Independence Day, here’s how this year’s Independence Day showdown came to be.

After the FTC voted to adopt its Ban, three lawsuits challenging the Ban were filed in rapid succession, creating the possibility that the Ban – which would otherwise go into effect September 4, 2024 absent a stay – could be enjoined while courts, perhaps even the Supreme Court of the United States, resolve these challenges. Ryan, LLC, a global tax services company, filed the first suit in the Northern District of Texas the very same day the FTC adopted its Ban. The following day, the Chamber of Commerce of the United States of America and related business associations filed suit in the Eastern District of Texas, also seeking a preliminary injunction and a stay of the Ban’s September 4 effective date. Lastly, ATS Tree Services, LLC, a Pennsylvania tree service company, filed suit in the Eastern District of Pennsylvania, seeking essentially the same relief as the first two filed suits.

The District Courts in the second and third suits have deferred to the Ryan, LLC suit, allowing that first-filed suit to play out. As a result, all noncompete eyes are now turned to the Northern District of Texas, where the court issued an order on May 7, 2024 setting a briefing schedule and a decision date by July 3, 2024 to decide Ryan LLC’s motion for stay of the Ban. If granted, the September 4 effective date of the Ban and its implementation and enforcement will be enjoined, while that court and perhaps higher courts, determine the legality of the Ban. Stay tuned for the Independence Day fireworks.

We first reported on the FTC’s ruling in our advisory [Federal Trade Commission Makes Good on Promise to Ban](#)

Non-Competes and will continue to provide updates as they happen. For questions about the FTC Non-Compete Clause Rule, the latest developments, or preemptive measures to consider in the meantime, please contact Amy Pearl at apearl@archerlaw.com or 856.857.2790 or Thomas Muccifori at tmuccifori@archerlaw.com or 856.354.3056, members of Archer's **Trade Secret Protection & Restrictive Covenants** Group.

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