



Federal Court in Texas Puts Hold on FTC's Ban - but Only for the Plaintiffs in That Case

Client Advisories

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On the eve of the Fourth of July, the U.S. District Court for the Northern District of Texas – the first court to consider the Federal Trade Commission's ("FTC") Non-Compete Clause Rule ("Rule") – **stayed the September 4, 2024 effective date** and **granted injunctive relief**, but only as to the named Plaintiffs.

In *Ryan LLC v. FTC*, the court found that the FTC lacks substantive rulemaking authority with respect to unfair methods of competition under Section 6(g) of the FTC Act. In reaching its decision that the FTC exceeded its statutory authority in promulgating the Rule (which we first reported about [here](#)), the court analyzed the "text, structure, and history" of the FTC Act. On the one hand, the court issued a scathing rebuke of the FTC's rulemaking and found "a substantial likelihood" that the FTC's actions were "arbitrary and capricious," but on the other hand, the court refused to extend the injunction nationwide.

A decision on the merits is expected on or before August 30, 2024 – just five days before the Rule is set to take effect. As we wait for that decision, the nation's non-compete eyes now turn to the Eastern District of Pennsylvania, where *ATS Tree Services, LLC* has also challenged the FTC Rule. The court in *ATS Tree Services* has scheduled oral argument for noon on July 10, 2024 on *ATS Tree Services*' motion for a preliminary injunction, and has indicated its intent to issue a ruling on the preliminary injunction application before July 23, 2024.

The limited scope of the court's relief in *Ryan LLC* creates confusion and uncertainty for employers not subject to that stay. Amid this uncertainty and given the potential for a conflicting ruling in other challenges to the Rule, as well as ever-changing state law, it remains advisable for employers to work with counsel to review existing agreements and consider additional options to protect their legitimate interests.

For questions about the FTC Rule, the latest developments, or preemptive measures to consider in the meantime, please contact **Amy Pearl**, a member of Archer's **Trade Secret Protection & Restrictive Covenants** Group, at apearl@archerlaw.com or 856.857.2790.

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