



Federal Court Sets Aside FTC Ban on Non-Competes

Client Advisories

08.21.2024

By: Amy Pearl

The United States District Court for the Northern District of Texas has set aside the Federal Trade Commission's ("FTC") Non-Compete Clause Rule ("Rule"). In a ruling with nationwide effect, the court ordered that "the Rule shall not be enforced or otherwise take effect on its effective date of September 4, 2024 or thereafter." This ruling bookends the first chapter of the FTC's assault on non-compete agreements by way of rulemaking and eliminates the enormous uncertainty for employers previously staring down the Rule's September 4 effective date and its mandatory notice requirement.

In *Ryan, LLC v. FTC*, the court found that (1) the FTC lacked statutory authority to promulgate the Rule and (2) the Rule is arbitrary and capricious. As to its first finding, the court concluded that the FTC lacked authority to promulgate substantive rules regarding unfair methods of competition. And with respect to its second finding, the court held that the Rule is arbitrary and capricious under the Administrative Procedure Act ("APA") because it was unreasonably broad without any reasonable explanation. Having reached these conclusions, the court held that it was obligated to "hold unlawful" and "set aside" the Rule under the APA. In a break from its earlier preliminary injunction ruling – which stayed the Rule's effective date only as to the plaintiffs in the case – the court explained that this setting aside has nationwide effect and is not limited to the named plaintiffs.

Now that the FTC's sweeping Rule has been set aside, employers can breathe a sigh of relief. However, an appeal is expected and hostility towards non-compete agreements still remains. Given this, employers should work with counsel to review existing agreements to ensure compliance with applicable state law while considering additional options to protect their legitimate business interests.

You can read our previous advisories on the FTC's Non-Compete Clause Rule here:

- [Federal Trade Commission Makes Good on Promise to Ban Non-Competes](#)

- [FTC Ban Poised for Fourth of July Fireworks](#)
- [Federal Court in Texas Puts Hold on FTC's Ban - but Only for the Plaintiffs in That Case](#)

If you have any questions about the FTC Rule and the latest developments, please contact [Amy Pearl](#) at 856.857.2790 or apearl@archerlaw.com, or any member of the [Trade Secret Protection & Restrictive Covenants Group](#).

DISCLAIMER: This client advisory is for general information purposes only. It does not constitute legal or tax advice, and may not be used and relied upon as a substitute for legal or tax advice regarding a specific issue or problem. Advice should be obtained from a qualified attorney or tax practitioner licensed to practice in the jurisdiction where that advice is sought.

Related People



Amy Pearl

Associate

✉ apearl@archerlaw.com

☎ 856.857.2790

Related Services

- [Business Litigation](#)

© 2024 Archer & Greiner, P.C. All rights reserved.

