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Northern District of Texas Stays Implementation of FTC's Noncompete Rule

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July 3, 2024 - Today the United States District Court for the Northern District of Texas issued an order and memorandum opinion staying the FTC's Noncompete Rule and entering a preliminary injunction against its enforcement by the FTC. The stay and preliminary injunction apply only to plaintiffs in the case, Ryan LLC v. Federal Trade Commission, 3:24-cv-00986-E (April 23, 2024). However, the court indicated it will reach a decision on the merits by August 30, 2024, which would position the court to issue a ruling that could apply to everyone before the Noncompete Rule takes effect. We expect the court ultimately to strike down the FTC's non-compete ban.

In its opinion, the court found that the plaintiffs were likely to succeed on the merits of their claims. In particular, it found that plaintiffs were likely to succeed in their claim that the FTC did not have authority to issue substantive rules regarding unfair methods of competition under Section 6(g) of the FTC Act, based on text, structure and history of the FTC Act. It also found that plaintiffs were likely to succeed in showing that in promulgating the rule the FTC acted arbitrarily and capriciously in violation of the Administrative Procedures Act, in part because the narrow evidence the FTC relied on of adverse competitive effects of state-level noncompete rules did not support a nationwide, categorical ban, and because the FTC failed to sufficiently address alternatives to issuing the Noncompete Rule.

The court did not address the merits of plaintiffs' three other claims: (a) that Congressional delegation of rulemaking authority was unconstitutional; (b) that the establishment of the FTC under the FTC Act is unconstitutional; and (c) that the Noncompete Rule exceeded the FTC's authority because it was inherently retroactive.

The court's grant of relief was also based on its finding that absent injunctive relief plaintiffs would suffer irreparable harm in the form of nonrecoverable costs of complying with the rule. In addition, the court found that the balance of harms to the parties favored plaintiffs and that the public interest weighed in favor of granting injunctive relief.

For more information, please see our prior alert [FTC Passes Rule Banning Non-Competes](#).

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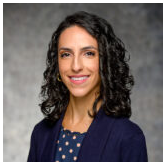
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