

Texas Federal Court Blocks FTC Rule Banning Non-Compete Agreements

By: John Vering

FTC Issues Rule Banning Non-Compete Agreements

On April 23, 2024, the Federal Trade Commission (“FTC”) voted 3-2 to issue a Final Rule (“Rule”) that would have generally banned employers from entering into non-competes with workers and would have required employers to notify workers that their existing non-compete agreements are unenforceable. We published a [client alert](#) explaining the Final Rule, which was scheduled to take effect September 4, 2024 (unless enjoined/stopped by a court).

Texas Court Finds FTC Exceeded its Authority in Issuing Rule Banning Non-Compete Agreements

On August 20, 2024, Judge Ada Brown in the U.S. Northern District of Texas issued a ruling setting aside the FTC Rule as beyond the FTC’s authority and as arbitrary and capricious. This ruling prevents the Rule from taking effect on September 4, 2024, or thereafter. While the FTC may appeal this decision, for the time being, employers need not comply with the FTC Rule banning non-compete agreements.

What Should Employers Do?

Employers should continue to monitor this case because there is the possibility that a higher court might reverse Judge Brown’s ruling, which is immediately appealable. We note that a Pennsylvania federal court reached a contrary conclusion finding that the FTC Rule was lawful. **However, the important point is that employers are currently not required to comply with the FTC Rule or send any notice to current or former workers that their non-compete agreements will not be enforced. In other words, employers with non-compete agreements can continue to enforce them as long as they comply with any applicable state laws.** We also note that it is still possible that the FTC could bring an individual action against an employer claiming that a particular non-compete agreement is non-competitive. However, given the FTC’s limited resources, the chances that the FTC will bring such actions are low.

Employers should continue to monitor federal and state legal developments, review existing agreements, and consider whether they need non-compete agreements for certain employees, or whether non-solicitation and non-disclosure agreements would adequately protect their legitimate protectable interests, including trade secrets and other confidential information, goodwill, and customer relationships. Employers must continue to comply with state and local laws, and be prepared to communicate the company’s position to employees and prospective employees who may be under the mistaken impression that non-compete agreements are now unlawful.

Please contact the Seigfreid Bingham [Employment Law](#) team or your regular Seigfreid Bingham contact with any questions about this new court ruling, non-compete agreements, or if you need assistance to protect your trade secrets, confidential information, and/or customer relationships. We will be monitoring further developments on these non-compete issues.

This article is general in nature and does not constitute legal advice. Readers with legal questions should

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