

Legal Update

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Pennsylvania Federal District Court Declines to Block FTC Noncompete Ban

On July 23, 2024, the U.S. District Court for the Eastern District of Pennsylvania [denied](#) the plaintiff's motion in *ATS Tree Services LLC v. FTC* for a preliminary injunction to block the Federal Trade Commission's (FTC) noncompete ban. This ruling differs from an early July holding in a similar case in the Northern District of Texas (*Ryan LLC v. FTC*) that partially blocked the ban with respect to the plaintiffs in that case, but not nationwide. In each case, the ban is still scheduled to take effect for most employers on **Sept. 4, 2024**.

Background

On May 7, 2024, the FTC published a [final rule](#) prohibiting employers from entering into or enforcing noncompete clauses with most employees. The final rule is scheduled to take effect on Sept. 4, 2024. Subject to very limited exceptions, the final rule provides that:

- The use of noncompete clauses will be banned as of the effective date;
- Any existing noncompete clauses (other than those entered into with senior executives) will be invalidated; and
- Employers must notify all employees (other than senior executives whose existing noncompete agreements will remain enforceable) that their existing noncompete agreements will not be enforced.

Currently, the enforceability of noncompete clauses is determined by state and local legislatures and courts. The FTC rule would instead govern the enforceability of noncompete clauses at the federal level and supersede any less restrictive state laws or judicial interpretations.

Court Case

In *ATS*, the plaintiff (a small tree-trimming company) filed a motion for a stay of the effective date and a preliminary injunction to prevent the ban from taking effect. The plaintiff argued that the noncompete ban exceeds the FTC's statutory authority, is unconstitutional, and is arbitrary and capricious.

The Pennsylvania court denied the plaintiff's motion and rejected its arguments, reasoning that the ban is within the FTC's rulemaking authority. This holding directly conflicts with the Texas court's holding in *Ryan*, which found that the FTC lacks such rulemaking authority.

Impact on Employers



ACTION STEPS

- On July 23, 2024, the Eastern District of Pennsylvania denied a plaintiff's motion for a preliminary injunction to block the FTC's noncompete ban.
- The noncompete ban is still scheduled to take effect on Sept. 4, 2024.
- The court's holding conflicts with an earlier holding in the Northern District of Texas that partially blocked the noncompete ban for the plaintiffs in that case.

Per the Pennsylvania court's ruling, the ban is still set to take effect on Sept. 4, 2024, so employers may take steps now to ensure compliance with the law by this date. However, the Northern District of Texas indicated its plan to issue a final ruling in *Ryan* by Aug. 30, 2024. Therefore, employers should continue to monitor for updates and wait to implement any final changes, as the final ruling in the *Ryan* case or other legal challenges could still result in the ban being modified, delayed or even vacated. Employers should also prepare for potential uncertainty in light of conflicting rulings.

Provided by Evolution of Benefits

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