

LEGAL UPDATE



HIGHLIGHTS

- On July 3, 2024, the Northern District of Texas put the FTC noncompete ban on hold, only with respect to the plaintiffs, until it issues a final decision in a case challenging the ban's validity.
- For all other employers, the noncompete ban is still scheduled to take effect on Sept. 4, 2024.
- The court stated that it intends to rule on the merits of the case on or before Aug. 30, 2024. Depending on the outcome, the ruling could affect the ban's effective date nationwide, so employers should continue to monitor for updates.

Texas Federal District Court Partially Blocks the FTC's Noncompete Ban

On July 3, 2024, the U.S. District Court for the Northern District of Texas [granted](#) the plaintiffs' motion in *Ryan LLC v. FTC* for a preliminary injunction to block the Federal Trade Commission's (FTC) noncompete ban while the court considers the merit of the case. The injunction applies only to the plaintiffs in the case: a Texas employer, the U.S. Chamber of Commerce and other business organizations. The court intends to rule on the merits of the case by Aug. 30, 2024, before the ban's scheduled effective date of 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 *Ryan*, the plaintiffs argue that the noncompete ban exceeds the FTC's statutory authority, is unconstitutional, and is the product of arbitrary and capricious decision-making and, therefore, should be vacated. The plaintiffs also filed a motion for a stay of the effective date and a preliminary injunction to prevent the ban from taking effect before the court issues a final decision.

In its holding on July 3, 2024, the Northern District of Texas granted the plaintiffs' motion for stay and a preliminary injunction only for plaintiffs (rather than nationwide). Therefore, plaintiffs will not be required to comply with the FTC noncompete ban until a court issues a decision in the case. However, the court indicated that it intends to issue a ruling on the merits by Aug. 30, 2024 (before the ban's effective date).

Impact on Employers

Per the court's decision, the effective date of the noncompete ban is stayed only for the plaintiffs; it does not apply nationwide. Therefore, other employers may still take steps to ensure compliance with the law on the effective date of Sept. 4, 2024. However, the court indicated its plan to issue a ruling by Aug. 30, 2024. In addition, the U.S. District Court for the Eastern District of Pennsylvania scheduled a hearing in a separate case seeking a preliminary

injunction of the noncompete ban on July 10, 2024, and is expected to issue a ruling by July 23, 2024. Therefore, employers should continue to monitor for updates and wait to implement any final changes, as the final ruling in this case or other legal challenges could still result in the ban being modified, delayed or even vacated.

