

ISSUE ALERTS

TEXAS FEDERAL COURT STRIKES DOWN FTC'S NON-COMPETE BAN ON A NATIONWIDE LEVEL

August 21, 2024

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On Aug. 20, 2024, in *Ryan LLC v. Federal Trade Commission*, the United States District Court for the Northern District of Texas (“the Court”) struck down the Federal Trade Commission’s (“FTC”) rule banning non-compete agreements in nearly all circumstances (“the Rule”), finding “that the FTC lacks statutory authority to promulgate the Non-Compete Rule, and that the Rule is arbitrary and capricious.” Importantly, the Court went on to declare that “[t]he Rule shall not be enforced or otherwise take effect on its effective date of September 4, 2024, or thereafter.” Thus, while the FTC will presumably appeal the Court’s decision, the ruling yesterday effectively frees all employers across the country, not just those in *Ryan*, from having to comply with the Rule for the foreseeable future. As to whether the Rule will ever take effect, employers will need to monitor what the United States Court of Appeals for the Fifth Circuit, and potentially the United States Supreme Court, does with the Court’s decision on appeal.

We previously published three Issue Alerts regarding the Rule: first, on April 25, 2024, following the FTC’s promulgation of the Rule; second, on July 8, 2024, following the Court’s issuance of a preliminary injunction temporarily blocking enforcement of the Rule as to the parties in that case; and third, on July 23, 2024, following a Pennsylvania federal court’s denial of an employer’s request to temporarily enjoin the Rule.

FOR MORE INFORMATION

If you have questions or want more information regarding the Rule or strategies regarding it, contact your legal counsel. If you do not have regular counsel for such matters, Foulston Siefkin LLP would welcome the opportunity to work with you to meet your specific needs. For more information, contact Scott C. Nehrbass at 913.253.2144 or snehrbass@foulston.com or Clayton J. Kaiser at 316.291.9539 or ckaiser@foulston.com. For more information on the firm, please visit our website at www.foulston.com.

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