

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

August 21, 2024

By: Clayton J. Kaiser

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.

Established in 1919, Foulston Siefkin is the largest Kansas-based law firm. With offices in Wichita, Kansas City, and Topeka, Foulston provides a full range of legal services to clients in the areas of administrative & regulatory; antitrust & trade regulation; appellate law; banking & financial services; business & corporate; construction; creditors’ rights & bankruptcy; e-commerce; education & public entity; elder law; employee benefits & ERISA;

FOULSTON

ATTORNEYS AT LAW

employment & labor; energy; environmental; ERISA litigation; estate planning & probate; family business enterprise; franchise & distribution; government investigations & white collar defense; governmental liability; government relations & public policy; healthcare; immigration; insurance regulatory; intellectual property; litigation & disputes; long-term care; mediation/dispute resolution; mergers & acquisitions; Native American law; oil, gas & minerals; OSHA; privacy & data security; private equity & venture capital; product liability; professional malpractice; real estate; renewable energy, storage, and transmission; securities & corporate finance; startup/entrepreneurship; supply chain management; tax-exempt organizations; taxation; trade secret & noncompete litigation; and water rights.

ADDITIONAL RESOURCES

Sign up to receive Foulston's issue alerts straight to your inbox [here](#).

This update has been prepared by Foulston Siefkin LLP for informational purposes only. It is not a legal opinion; it does not provide legal advice for any purpose; and it neither creates nor constitutes evidence of an attorney-client relationship.

PRACTICE AREAS

- Noncompete & Trade Secret Litigation
- Employment & Labor