

News

FTC Noncompete Rule Set Aside by Federal Court

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On August 20, 2024, a federal court in the Northern District of Texas issued a nationwide injunction blocking a [final rule](#) issued earlier this year by the Federal Trade Commission (“FTC”). This final rule would have put an end to employers’ ability to enforce most non-compete agreements and was scheduled to take effect on September 4, 2024.

In *Ryan LLC v. FTC*, the plaintiffs disputed the far-reaching scope of the final rule, which we discussed in our [April alert](#). The plaintiffs argued that the FTC exceeded its statutory authority under the Administrative Procedure Act to issue the rule. Citing to the Supreme Court’s recent decision in *Loper Bright Enters. v. Raimondo*, the court agreed with the plaintiffs. See our [recent alert](#) discussing *Loper Bright* and its implications for administrative rulemaking moving forward. Keeping with the current trend curtailing agency rulemaking authority, the court in *Ryan LLC* found that the “FTC has some authority to promulgate rules to preclude unfair methods of competition... [however, the] FTC lacks the authority to create substantive rules through this method.” The court also found that the evidence the FTC put forward to support its ban on non-competes was insufficient.

This was not the only case filed this year challenging the final rule. In a July decision, the Eastern District of Pennsylvania in *ATS Tree Services LLC v. FTC* declined to grant a preliminary injunction of the final rule, finding that the plaintiffs had failed to show irreparable harm and were unlikely to succeed on the merits. However, in August, a federal court in Florida held in *Properties of Villages, Inc. v. FTC* that the FTC exceeded its authority in banning all non-compete agreements, though the court declined to enter a nationwide injunction.

Despite this emerging circuit split concerning the final rule, the nationwide injunction imposed by the federal court in Texas nonetheless prevents the final rule from going into effect on September 4th. In terms of practical impact, employers that have been preparing the notices required by the final rule will no longer need to comply with this requirement for the immediate future.

The FTC may appeal the decision, so this remains an evolving issue. However, a change in administration in the upcoming presidential election may derail the FTC’s appeal efforts. The attorneys at Groom Law Group will continue to monitor the litigation concerning the final rule.