

# LEGAL UPDATE



## HIGHLIGHTS

- On May 7, 2024, the FTC issued a final rule that would ban virtually all noncompetes effective **Sept. 4, 2024**.
- On **July 3, 2024**, the U.S. District Court for the Northern District of Texas put the FTC noncompete ban on hold, but only for the plaintiffs.
- On **Aug. 20, 2024**, the District Court blocked the FTC's noncompete ban for all employers.
- Employers may continue to rely on state-level guidance regarding the enforceability of noncompetes and monitor additional legal challenges, including a possible appeal by the FTC.

## Federal District Court Blocks the FTC's Noncompete Ban

On **Aug. 20, 2024**, the U.S. District Court for the Northern District of Texas issued an [order](#) blocking the Federal Trade Commission's (FTC) noncompete ban, which had a scheduled effective date of Sept. 4, 2024. The court had previously put the noncompete ban on hold in this case (*Ryan LLC v. FTC*), but only for plaintiffs. The most recent ruling blocks the ban for all employers and prevents the ban from taking effect on Sept. 4, 2024, or thereafter.

### Background

On May 7, 2024, the FTC published a [final rule](#) prohibiting employers from entering into or enforcing noncompete clauses with most employees. Subject to very limited exceptions, the final rule provided that:

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

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 The FTC rule would have instead governed the enforceability of noncompete clauses at the federal level and superseded any less restrictive state laws or judicial interpretations.

### Court Case

In *Ryan*, the plaintiffs argued that the noncompete ban should be vacated because it exceeds the FTC's statutory authority, is unconstitutional, and is the product of arbitrary and capricious decision-making. In a preliminary holding on July 3, 2024, the U.S. District Court for the Northern District of Texas partially blocked the ban, but only for plaintiffs (not nationwide), while it considered the merits of the case.

On Aug. 20, 2024, the court issued a final ruling in *Ryan* agreeing with the plaintiffs' arguments and holding that "the FTC lacks statutory authority to promulgate" the noncompete ban and the ban "is arbitrary and capricious." Under the court's ruling, the noncompete ban is permanently blocked **for all employers** and will not take effect on Sept. 4, 2024.

### Current Impact

In light of the Texas court's ruling, employers will not need to take steps in the immediate term to invalidate existing noncompetes, update agreements or issue notices. Employers may also continue to rely on state-level guidance regarding the enforceability of noncompetes. However, the FTC will likely appeal the ruling, so employers should continue to monitor for updates in this case.