

Update – Federal District Court Issues Preliminary Injunction Against the FTC’s Ban on Non-Competes

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On July 3, 2024, U.S. District Judge Ada Brown of the Northern District of Texas issued a preliminary injunction against the implementation of the Federal Trade Commission’s (FTC’s) rule adopting a ban on non-competition agreements and clauses, which prevent workers from leaving for a competitor for a certain period of time. The district court ruled, *inter alia*, that the FTC exceeded its statutory authority in issuing its rule banning non-competes.

Making things a bit complicated at this point, the district court has not yet decided whether to issue a nation-wide injunction completely blocking the FTC from implementing or enforcing the non-compete ban. The court directed additional briefing on that issue and indicated that it intends to decide the scope of the injunction by August 30, 2024. In any event, even though the July 3rd ruling currently only extends to the parties to that lawsuit, this interim decision is a strong indicator that the FTC rule may not be allowed to go into effect.

The trial court’s decisions almost certainly eventually will be appealed to the Fifth Circuit Court of Appeals. The timetable for an appeal is uncertain. Our best advice remains the same — sit tight for the next few weeks to see what happens at the trial court level and on appeal; hopefully this federal regulatory storm regarding non-competes will blow over.

In the meantime, employers still should consider alternatives in the event the FTC’s ban on non-compete agreements actually goes into effect. Employers can take steps to protect themselves through properly drafted non-solicitation and confidentiality provisions aimed at protecting proprietary information. And consider compiling a list of non-executive employees that previously signed non-competes to whom notice would have to be given if the FTC’s rule goes into effect.

As always, if you have questions about this FTC rule or your current or planned non-competition, non-disclosure, and/or non-solicitation agreements, please contact [Chuck Lee](#), [Stacie Caraway](#), [Erin Steelman](#), or any other member of our [Labor & Employment](#) Law Practice Group.