Update – Federal District Court Sets Aside the FTC's Rule Banning Non-Competes

Posted in Alert on August 21, 2024

On August 20, 2024, U.S. District Judge Ada Brown of the Northern District of Texas granted summary judgment against the Federal Trade Commission (FTC) and set aside the FTC's rule adopting a ban on most non-competition provisions. The district court ruled, inter alia, that the FTC exceeded its statutory authority in issuing its rule banning non-competes. The district court specifically ordered that the FTC's non-compete rule "shall not be enforced or otherwise take effect on its effective date of September 4, 2024, or thereafter." Thus, the ruling applies nationwide.

The trial court's decision almost certainly will be appealed to the Fifth Circuit Court of Appeals, and perhaps eventually to the United States Supreme Court. The timetable for appeals is uncertain at this point. Our best advice remains the same —continue to sit tight for now. Let's see what happens on appeal. At this point it looks like this federal regulatory storm regarding non-competes will blow over, and that the FTC's non-compete rule will not go into effect.

We Can Help
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, Jimmy Daniel, Stacie Caraway, Erin Steelman, or any other member of our Labor & Employment Law Practice Group.