



Federal Court Decision Sets Aside FTC Ban on Noncompetition Agreements

On August 20, 2024, in the matter of *Ryan, LLC v. Federal Trade Commission*, the United States District Court for the Northern District of Texas granted Ryan, LLC's motion for summary judgment enjoining the FTC from enforcing the ban on a nationwide basis. The Federal Court's ruling set aside the FTC ban and entered judgment that the FTC Rule “*shall not be enforced or otherwise take effect on its effective date of September 4, 2024 or thereafter.*”

In a prior advisory, we wrote about the Federal Trade Commission's April 23, 2024, announcement of a nationwide rule formally banning most forms of noncompetition clauses. In a 3-2 vote, the FTC issued a 570-page final rule, 16 CFR Part 910, that would have had dramatic consequences for noncompete clauses in employment agreements. Had the FTC ban not been overturned by the Fifth Circuit, it was scheduled to have taken effect on September 4, 2024.

The Northern District of Texas federal court set aside the FTC's broad sweeping prohibition on noncompetition agreements, ruling that the FTC's ban exceeded its statutory authority and was an unlawful exercise of the FTC's rulemaking under Section 6(g) of the Federal Trade Commission Act. The Court also determined that the FTC ban was arbitrary and capricious under the Administrative Procedures Act (APA) and was an unlawful agency action.

Having determined that the FTC's ban, 16 C.F.R. §§ 910.1 - 910.6, exceeded its statutory authority and was an arbitrary and capricious and an unlawful agency action, the Court set aside the FTC ban citing to the APA, 5 U.S.C., § 706(2) and the recent U.S. Supreme Court case of *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024).

What the *Ryan LLC v. FTC* decision means?

The FTC ban on noncompetition agreements will not take effect on September 4, 2024, and is no longer enforceable anywhere in the United States. Companies using noncompetes as part of contractual protection of their good will, confidential and/or proprietary information and/or trade secrets may continue to do so, subject to the applicable requirements of state law. Even if the case is appealed to the Fifth Circuit and the U.S. Supreme Court, the ruling prohibiting the FTC ban from going into effect is highly unlikely to be overturned in light of recent Supreme Court decisions, including the *Loper Bright Enterprises v. Raimondo* decision, which reassesses how

courts are to view agency rulemaking and interpretations of statutes by administrative agencies and provides less deference to agencies in these areas.

If you have questions about this decision or noncompetition matters, please reach out to one of the members of our Employment Litigation team.

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