

# Non-Competition Agreements; FTC Rule Status

## Publications

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As we previously reported, on April 23, 2024, the Federal Trade Commission (FTC) announced their final rule banning most “non-competition” agreements. The FTC determined non-competition agreements were an unfair method of competition, and the final rule would prevent persons from entering into non-compete agreements with workers on or after September 4, 2024. With respect to existing noncompetes, the FTC’s final rule adopted two approaches based on seniority of the employee. For senior executives, existing noncompetes could remain in force, but noncompetes for other workers would no longer be enforceable.

On August 20, 2024, the United States District Court for the Northern District of Texas, in *Ryan LLC et al. v. Federal Trade Commission*, granted a motion for summary judgment by Ryan LLC and the US Chamber of Commerce and barred the FTC from enforcing its broad non-compete ban with nationwide effect. The Court held that the non-compete ban exceeded the FTC’s statutory authority and was arbitrary and capricious, violating the US Administrative Procedure Act.

The important takeaway is that, in light of the *Ryan* decision, if undisturbed by a higher court, employers across the country no longer will need to comply with the FTC’s non-compete ban or its requirement to provide notice to current and former employees with active noncompetes that those agreements are unenforceable by September 4, 2024. Employers, however, should stay abreast of the legal landscape as the *Ryan* decision will not be the final word on the issue. The FTC will almost certainly appeal the ruling. Beyond *Ryan*, litigation on the rule remains pending in a few other federal courts. Decisions in those other cases may well lead to their own appeals. In any event, the Supreme Court likely will take up this issue. We also caution that, with the federal rule in jeopardy, some states may step up their efforts to restrict (or further restrict) noncompetes through new legislation, regulations, or enforcement efforts.

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