
FTC Non-Compete Rule Update: Uncertainty Remains as Federal District Courts Issue Conflicting Preliminary Injunction Rulings

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On July 3, 2024, the U.S. District Court for the Northern District of Texas, in a challenge to the validity of the Federal Trade Commission's (the "FTC") new non-compete rule, granted the plaintiffs' motion for a preliminary injunction and stayed the rule's effective date as to the *plaintiffs only*, concluding that the plaintiffs were likely to succeed in showing that the FTC overstepped its authority when issuing the non-compete rule. Subsequently, on July 23, 2024, in a similar challenge to the rule's validity, the U.S. District Court for the Eastern District of Pennsylvania denied the plaintiff's motion for a preliminary injunction to stay the rule's effective date, concluding that plaintiff was unlikely to succeed in challenging the non-compete rule and that plaintiff had failed to show that it would suffer irreparable harm absent an injunction. Subject to further judicial developments, the non-compete rule remains scheduled to come into effect for all parties other than the plaintiffs in the Texas case on *September 4, 2024*.

This memorandum addresses, in a question-and-answer format, recent judicial developments involving the FTC's non-compete rule, as well as several nuances and ambiguities employers should keep in mind when assessing employee non-competes and other restrictive covenants in the event the FTC's non-compete rule ultimately comes into effect.

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