

ALERTS

Federal Judge Rules FTC Lacked Authority to Issue Non-Compete Rule

July 4, 2024

On July 3, 2024, Judge Ada Brown of the US District Court for the Northern District of Texas issued a ruling in the litigation challenging the Federal Trade Commission's ("FTC") final rule (the "Rule") prohibiting the use of noncompetition restrictions in the workplace. Judge Brown granted a stay and preliminary injunction preventing the Rule from taking effect against the plaintiff and plaintiff-intervenors in the action while the litigation is pending. Judge Brown held that the plaintiff and plaintiff-intervenors were likely to succeed on the merits in their action to vacate the Rule because the FTC lacked authority to issue a non-compete ban and that the Rule was arbitrary and capricious. While the stay and preliminary injunction only applies to the plaintiff and plaintiff-intervenors, Judge Brown committed to issuing a final ruling on the merits of the action, including ruling on the plaintiff's request that the Rule be vacated in its entirety, by Aug. 30, 2024. For context, the effective date of the Rule is Sept. 4, 2024. Given Judge Brown's legal rationale that the FTC lacked authority to issue the Rule, it would seem likely that she will ultimately rule to vacate the Rule in its entirety.

We will continue to monitor and keep you apprised of any further developments to the legal challenges to the Rule, including the separate challenge to the Rule that is ongoing in the US District Court for the Eastern District of Pennsylvania for which a decision is expected by July 23, 2024. Please reach out to your Schulte contacts to discuss the decision and any related restrictive covenant issues.

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Attachments

⬇ District Court Decision