

FTC Ban on Worker Non-Competes Halted by Federal Court

Alert

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On August 20, 2024, a Texas federal court judge issued an order halting the Federal Trade Commission's (FTC) non-compete rule, preventing it from taking effect on September 4, 2024. The [order](#), issued by Judge Ada Brown, held that the FTC lacks statutory authority to promulgate the non-compete rule and that the rule is arbitrary and capricious. Judge Brown found the rule is unlawful, "shall not be enforced or otherwise take effect," and must be set aside. The order has nationwide effect, and will prevent the worker non-compete rule from being enforced across the United States. The order is a final ruling, and the FTC has indicated it is considering an appeal and will continue fighting to stop non-competes that it believes restrict workers' freedom to change jobs.

WHAT THIS MEANS FOR EMPLOYERS

The order setting aside the non-compete rule means that otherwise valid non-compete agreements will remain lawful and subject to enforcement. It also means that employers are no longer required to provide notices to current and former workers who are covered by a non-compete clause. The rule contains a requirement for employers to notify such individuals that as of the effective date of the rule, their non-compete clause could not and would not be enforced against them. Employers who may have already sent notices should consult with their legal advisor as to their ability to rescind them.

The order was handed down in one of several cases challenging the FTC's non-compete rule, but is the first ruling with nationwide reach. While employers across the United States have a reprieve from compliance with the non-compete ban, the outcome of the various legal challenges remains uncertain.

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The FTC's non-compete rule, as written, has broad impact, effectively banning most non-competes with employees and independent contractors, as discussed in our previous [alert](#). The order halting enforcement of the rule has no impact on state and local laws restricting the use of non-competes, and employers subject to such restrictions should consult with legal counsel as to the continued use and enforcement of non-competes.

For more information on the order halting the FTC's ban of worker non-competes, please contact [Amy Conway](#), [Alisa Nickel Ehrlich](#), [Pat Konopka](#), [Sharon Ng](#), [Stephanie Scheck](#), [Nicci Warr](#) or the Stinson LLP contact with whom you regularly work.

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