

# Publications

## FTC Non-compete Ban Blocked – For Good, For Now

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On Tuesday, August 20, 2024, the U.S. District Court for the Northern District of Texas struck down the Federal Trade Commission's (FTC) non-compete ban, permanently and nationally.

As we reported previously, in April 2024, the FTC announced a new rule that generally barred most non-compete agreements and required employers to provide notice to workers impacted by the rule. The rule was set to go into effect on September 4, 2024. Shortly thereafter, several lawsuits were filed in federal courts in Texas and Pennsylvania challenging the FTC's authority to engage in "substantive rulemaking" under Section 6 of the FTC Act.

In June, the Northern District of Texas Court issued a preliminary injunction, blocking the rule from going into effect as scheduled. The Court noted that the plaintiffs were "substantially likely to prevail on the merits of their challenge to the FTC's Non-Compete Rule." The court did not, however, issue a nationwide injunction.

On August 20th, the Court disposed of the rule entirely, ordering that it be "**SET ASIDE** and shall not be enforced or otherwise take effect on its effective date of September 4, 2024, or thereafter." Following reasoning similar to its preliminary injunction, the Court ruled that "the FTC exceeded its statutory authority in implementing the rule, and the rule is arbitrary and capricious."

Still, the Court's decision may not be the end of the story. Whether the FTC appeals the decision to the Fifth Circuit Court of Appeals remains to be seen. At this point, however, employers **do not** need to notify their employees that their non-compete agreements would be unenforceable as previously required.

We will report on any significant developments in cases challenging the FTC's rulemaking authority. In the interim, contact your Vorys lawyer if you have questions.