

CLIENT ALERT

Navigating Compensation Governance

Texas Federal Court Strikes Down FTC's Ban on Noncompetes

A Texas U.S. district court has struck down the FTC's ban on noncompete arrangements.

Among other reasons for its ruling, the Court found that the FTC lacked authority to write regulations restricting "unfair methods of competition"

The Court's ruling applies nationwide and prohibits the FTC from enforcing its ban on noncompete arrangements against any entity.

Background

Historically, the federal government has not pre-empted states' authority to permit or regulate noncompetition agreements and provisions. On April 23, 2024, the FTC adopted final rules which would have changed the legal landscape by broadly banning noncompete arrangements.

The Noncompete Ban declared noncompete provisions to be unfair methods of competition under Section 5 of the FTC Act and would bar nearly all types of business entities, including private and public companies, from entering into noncompete provisions with workers, including "senior executives."¹ That rule was scheduled to go into effect on September 4, 2024.

Shortly after the Noncompete Ban was adopted, three separate lawsuits were filed seeking to stay the implementation and enforcement of the Noncompete Ban: ***Ryan LLC v Federal Trade Commission***, ***ATS Tree Services, LLC v. Federal Trade Commission*** and ***Properties of the Villages, Inc. v. Federal Trade Commission***.

The *Ryan* and *Properties of the Villages* courts stayed the enforcement of the Noncompete Ban solely with respect to the named parties, while the *ATS Tree Services* court denied plaintiff's request for a stay order (noting that the FTC likely has the authority to ban non-competes).

¹ For details on the FTC ban on noncompete arrangements, see [Meridian's Client Alert dated April 25, 2024](#).

Texas District Court Rules on the Merits – Strikes Down FTC Ban

On August 20, 2024, the *Ryan* court ruled on the merits of the case and struck down the Noncompete Ban. The Court based its ruling on the following:

- The Noncompete Ban is arbitrary and capricious because it is unreasonably overbroad without a reasonable explanation.
- The FTC Act does not expressly grant the Commission authority to promulgate substantive rules regarding unfair methods of competition, and therefore, the FTC exceeded its authority in adopting the Noncompete Ban.

The Texas court ruling applies nationwide. Accordingly, the ruling bars the FTC from implementing and enforcing the Noncompete Ban against any party anywhere in the U.S.

However, the ruling leaves unchanged state laws that regulate non-competes.

In addition, the FTC has the power to bring enforcement actions on a case-by-case basis against any company that has illegally restricted competition through the use of non-competes. The FTC has previously pursued such enforcement actions on a limited basis.²

What Comes Next?

The FTC could appeal the Texas court's decision to the Fifth Circuit Court of Appeals. Ultimately, the case could wind its way to the U.S. Supreme Court. In the meantime, the Noncompete Ban is without force or effect. The status quo remains unchanged, and therefore, employers may continue to enter into and enforce noncompete arrangements subject to applicable state law.

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The [Client Update](#) is prepared by Meridian Compensation Partners' Governance and Regulatory Team led by Donald Kalfen. Questions regarding this Client Update or executive compensation technical issues may be directed to Donald Kalfen at 847-347-2524.

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² For example, in January 2023, the FTC [announced actions](#) against a security-guard company and glass container manufacturers and ordered the companies to (i) void noncompetes covering more than 3,000 workers in total and (ii) ban the use of noncompete going forward.