



Employment Update

Keeping You Informed About Employment Matters

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FTC Ban on Non-Competes Struck Down Nationwide

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On April 23, 2024, the Federal Trade Commission (“FTC”) proposed a rule banning non-compete agreements between employers and employees. The rule applied to employees, independent contractors, interns, and more, but permitted existing non-compete agreements with senior executives, subject to certain conditions. The rule also required employers to provide notice to workers who had previously signed a non-compete agreement that the clause was no longer enforceable. This new rule was set to be effective beginning September 4, 2024. Now, a federal court has struck down this rule.

Challenges to the FTC Rule

Multiple parties sued the FTC in the Middle District of Florida, the Northern District of Texas, and in the Eastern District of Pennsylvania, disputing the new rule and seeking to prevent its enforcement. In late July, a federal judge in the Eastern District of Pennsylvania sided with the FTC and denied a request to delay the enforcement of the rule. In contrast, a federal judge in the Middle District of Florida blocked the enforcement of the FTC’s rule on August 19, but only as to the parties in that case.

However, on August 20, Judge Ada Brown of the U.S. District Court for the Northern District of Texas struck down the rule nationwide finding that the FTC exceeded its statutory authority when it approved the rule. In her opinion, Judge Brown explained that the FTC “fail[ed] to consider the positive benefits of non-compete agreements, and disregard[ed] the substantial body of evidence supporting these agreements.” Further, Judge Brown noted that the rule was “unreasonably overbroad without a reasonable explanation.” As a result, she determined that the rule could not be enforced.

What This Ruling Means for Employers

Now that the FTC’s broad ban on non-compete agreements has been struck down, non-compete agreements currently in effect will continue to be enforceable after September 4, 2024. Similarly, the status quo is maintained, and employers may continue to enter into non-compete agreements. However, it is critical to ensure that existing non-compete agreements comply with Florida’s specific standards. The FTC can still review non-compete agreements on a case-by-case basis.

The FTC may appeal the ruling, which could lead to a reversal of Judge Brown’s decision and lead to the re-implementation of the rule. Radey Law Firm continues to monitor developments. If you have any questions, please call Radey Law Firm at 850-425-6654.

This article is meant to provide a brief overview and points of discussion regarding employment and labor law topics. Should a particular issue arise or should you desire additional consultation to protect your firm, the advice of a competent counsel should be sought.