

Client Insight: Legal Challenge to FTC Noncompetition Ban is Successful, but Limited to Named Parties Only for Now

Insights

July 3, 2024

A federal judge has halted the Federal Trade Commission's ban on post-termination noncompetition agreements, but only as it pertains to the named parties in the case. In *Ryan LLC v. FTC*, the court preliminarily found that the FTC exceeded its statutory authority in promulgating the noncompetition ban, because Section 6(g) of the FTC Act does not grant the FTC substantive rulemaking power for unfair methods of competition. The court also indicated a substantial likelihood that the new rule is arbitrary and capricious due to its broad application without a reasonable explanation. For now, however, this ruling applies only to Ryan LLC, the U.S. Chamber of Commerce, and other named parties in the case, not to all employers. It is possible the FTC's ban will take effect on September 4, 2024, but legal obstacles remain.

The court in the *Ryan* case intends to make a final ruling on the merits of the case by August 30, 2024, and may decide to grant broader relief. In the meantime, a federal district court in Pennsylvania is scheduled to rule on a similar motion to stay by July 23, 2024, in a case entitled *ATS Tree Services v. FTC*.

Gunderson will provide additional analysis of today's *Ryan* decision early next week.

In the meantime, if you have any questions regarding post-termination noncompetition agreements, please contact your Gunderson attorney.

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