

FTC's Non-Compete Ban Ruled Unenforceable by Federal Judge

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On Tuesday, August 20, 2024, United States District Court Judge Ada Brown ruled that the Federal Trade Commission's ("FTC") rule largely banning non-compete provisions is unenforceable. Although Judge Brown presides in the United States District Court of the Northern District of Texas, her ruling will apply nationwide and will ensure that the FTC's non-compete ban that was scheduled to take effect on September 4, 2024, will not do so.

What does this ruling mean for employers?

First, those non-competition provisions employers have in place with current or former employees will remain in effect.

Second, in those jurisdictions where non-competition provisions are permitted, such as Massachusetts, employers may continue to include them in restrictive covenant agreements to protect their legitimate business interests – most notably, customer goodwill, confidential information, and trade secrets. However, such agreements should be narrowly tailored and comply with Massachusetts law or the laws of other jurisdictions in which the employer's employees work.

It is unlikely that we have heard the last of this issue, as the FTC has stated that it is "seriously considering a potential appeal." The Labor, Employment, and Employee Benefits Group here at Mirick O'Connell will continue to closely monitor any new developments and will report on the outcome of any such appeal. In the meantime, please reach out to any member of our team if you have any questions.

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