FTC Non-Compete Rule Enjoined



August 22, 2024

A federal district court in Texas has issued a nationwide injunction prohibiting the FTC from enforcing its non-compete rule. The rule, adopted by the FTC on April 23, 2024, had been scheduled to go into effect on September 4, 2024. The Texas court found that the FTC did not have the authority to adopt any substantive rule about competition and that the rule which it did adopt was arbitrary and capricious.

While employers now need not implement the rule by early September, the FTC may appeal the district court's order. Another federal district court, in Pennsylvania, had concluded only a few weeks ago that the FTC had the authority to adopt the rule. Employers should keep up-to-date about any appeals.

In addition, preparation for the rule may have led employers to reexamine the breadth of their non-compete provisions and the scope of employees subject to them. Employers that determine to modify their non-compete practices, may wish to seek guidance with respect to any such modifications and the likelihood of enforceability.

For more information about the issues raised in this Alert, please contact:

John D. Fanburg, Esq., *Managing Member*, *Chair*, Healthcare Practice, *Co-Chair*, Cannabis Industry, at jfanburg@bracheichler.com or 973-403-3107

Keith J. Roberts, Esq., *Member*, *Chair*, Litigation Practice, at kroberts@bracheichler.com or 973-364-5201

Rose Suriano, Esq., *Member*, Litigation Practice, at rsuriano@bracheichler.com or 973-403-3129

Carol Grelecki, Esq., *Member*, Healthcare Practice, at cgrelecki@bracheichler.com or 973-403-3140

Jay Sabin, Esq., *Member*, Labor and Employment Practice, at jsabin@bracheichler.com or 917-596-8987

Authors

The following attorneys contributed to this insight.



John D. Fanburg

Managing Member
Healthcare Law, Cannabis Industry

973.403.3107 · 973.618.5507 Fax

jfanburg@bracheichler.com



Keith J. Roberts

Member
Litigation, Healthcare Law

973.364.5201 · 973.618.5585 Fax

kroberts@bracheichler.com



Rose Suriano

Member
Litigation

973.403.3129 · 973.618.5951 Fax

rsuriano@bracheichler.com



Carol Grelecki

Member
Healthcare Law

973.403.3140 · 973.618.5540 Fax

cgrelecki@bracheichler.com



Jay Sabin

Member
Labor and Employment, Cannabis Industry

917.596.8987 · 973.618.5907 Fax

jsabin@bracheichler.com