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:

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