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News & Insights

Employment Alert! A Federal Court Decision Upends the Federal Trade Commission's Planned Ban on Workplace Non-Compete Agreements and Policies

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The Federal Trade Commission's planned ban against workplace non-compete agreements and policies was dealt a possible fatal blow late yesterday by a federal court in Texas.

In a lawsuit brought in part by the U.S. Chamber of Commerce to challenge the rule, the federal court in Dallas issued an order finding (1) that the FTC exceeded its statutory authority in promulgating its planned noncompete rule; (2) that the rule itself is both arbitrary and capricious; and (3) that federal law requires the court to "hold unlawful" and "set aside" the FTC's rule on a nationwide basis.

In April, the FTC announced the planned final rule to end workplace non-compete agreements and clauses that potentially impact as many as 30 million workers. The rule, which was to go into effect in early September, made noncompetition agreements and noncompete clauses unenforceable for almost all employees with the exception of a very narrow set of high-level executives.

Yesterday's order differs from but takes precedence—at least for now—over a federal court decision in Pennsylvania last month, which determined the FTC acted within its authority. As a result, the FTC's ban on non-compete agreements will not go into effect on September 4, 2024. The FTC is considering whether it will appeal the decision to the Fifth Circuit Court of Appeals, which covers the Texas federal courts. An appeal will most likely take months to reach a final outcome.

Please do not hesitate to contact a member of the HALL ESTILL Labor & Employment Group with assistance in this process, or if you have any questions about the final rule and how it may impact your business.