



# Update: Texas Court Halts the FTC's Rule Banning Non-Compete Clauses

August 26, 2024

## INSIGHTS

- In May 2024, the FTC issued a rule to ban virtually all non-compete clauses in employment contracts with extremely narrow exceptions.
- A Texas Court set aside and blocked the FTC's rule banning non-compete clauses, meaning the FTC's rule will not go into effect on September 4 for any employer.
- Expect continued updates as these legal challenges work their way through the court system.

With only weeks to go before the rule was set to take effect, the U.S. District Court for the Northern District of Texas, on August 20, 2024, affirmed its earlier ruling that the FTC's rule banning non-competes is unlawful—but this time, the Court expanded its limited injunction and set aside the FTC's rule entirely, meaning that the FTC's rule will not go into effect on September 4 for any employer.

As was expected by many, the Court held that the FTC lacked the legal authority to issue the non-compete ban and that the non-compete ban was “arbitrary and capricious” because it was “unreasonably overbroad without a reasonable explanation.” Although an appeal can be expected, and at least one other trial court previously found the FTC rule to be permissible, the FTC rule is likely to face a hostile audience on appeal in the Fifth Circuit Court of Appeals—as well as in the U.S. Supreme Court, if the Justices ultimately agree to review the FTC rule for themselves. It is therefore more likely than not that the FTC rule will not ever go into effect (at least in its current form), although the issue remains uncertain and is likely to take more than a year to be finally resolved.

So, while employers can rest easy for now and stand down on any efforts to comply with the FTC rule, employers should continue to expect increased scrutiny of non-compete agreements in state legislatures and in certain courts. Employers should therefore continue to take action to ensure that their non-competes are narrowly tailored to protect their legitimate business interests.

Please note that the information provided in this release is general in nature and not intended as legal advice. Specific circumstances may vary, and we encourage clients to contact us directly for personalized assistance and further information.

## AUTHORS

---



**Jared C. Miller**

Partner  
Atlanta  
404.420.5564  
[jmiller@phrd.com](mailto:jmiller@phrd.com)



**Drew Stevens**

Of Counsel  
Atlanta  
404.880.4776  
[dstevens@phrd.com](mailto:dstevens@phrd.com)

*Parker Hudson's Client Alerts are published solely for the interests of friends and clients of Parker, Hudson, Rainer & Dobbs LLP and should in no way be relied upon or construed as legal advice. For specific information on recent developments or particular factual situations, the opinion of legal counsel should be sought. These materials may be considered ATTORNEY ADVERTISING in some jurisdictions.*