



FTC's Proposed Ban on Non-Compete Agreements Blocked by Federal Judge - For Now

Michael R. Blum, Karl W. Butterer, Anthony M. Dalimonte and Clifford L. Hammond

Foster Swift Labor & Employment Law News E-blast

August 23, 2024

On August 20, a U.S. District Court judge blocked a ban on non-compete agreements ordered earlier this year by the Federal Trade Commission (FTC). The new FTC rule, which was set to become effective on September 4, 2024, would have enacted a near-total nationwide ban on almost all non-compete agreements.

The U.S. Chamber of Commerce and several other businesses had earlier sued the FTC seeking to block the new rule, alleging agency overreach that would make it more difficult for companies to retain talent.

U.S. District Judge Ada Brown agreed with the Chamber of Commerce, writing in her decision that the FTC had overstepped its statutory authority and called the proposed rule "arbitrary and capricious."

Read the full federal court decision regarding non-compete agreements [here](#).

The FTC has indicated that it will likely appeal the decision. Ultimately, it is the U.S. Supreme Court which may decide the fate of non-compete agreements in the American workplace.

Recommendations for Employers

- For now, the new FTC rule will not prohibit you from enforcing non-compete agreements. But keep in mind that state law and the National Labor Relations Act may also affect the enforceability of a non-compete agreements.
- Stay informed, as the issue is dynamic. For instance, in March 2024, a bill banning most non-compete agreements was introduced in the Michigan House of Representatives. That proposed law is moving forward and is now being reviewed in committee.

AUTHORS/ CONTRIBUTORS

Michael R. Blum

Karl W. Butterer

Anthony M. Dalimonte

Clifford L. Hammond

PRACTICE AREAS

Employer Services

Employment Law

Employment Litigation

Labor Relations

Trade Secrets & Non-Compete
Contracts



The attorneys of Foster Swift's Employer Services Practice Group have decades of experience and deep expertise with non-compete agreements. They will continue to monitor the legal situation and provide updates as necessary. If you have any questions or concerns about your company's non-compete agreements or other issues, please contact a member of our labor & employment law team:

- Mike Blum...248.785.4722...mblum@fosterswift.com
- Karl Butterer...616.726.2212...kbutterer@fosterswift.com
- Tony Dalimonte...248.785.4733...adalimonte@fosterswift.com
- Cliff Hammond...248.538.6324...chammond@fosterswift.com