

GIBSON DUNN



Administrative Law & Regulatory Practice Update

August 20, 2024

## Gibson Dunn Secures Nationwide Relief from Federal Trade Commission's Non-Compete Rule

*Ryan, LLC v. Federal Trade Commission*

The United States District Court for the Northern District of Texas today granted summary judgment to Gibson Dunn's client, Ryan, LLC, in its challenge to the Federal Trade Commission's Non-Compete Rule. The Rule would have retroactively invalidated over 30 million employment contracts and preempted the laws of 46 states. The court set aside the rule, with nationwide effect, ordering that "the Rule shall not be enforced or otherwise take effect on its effective date of September 4, 2024 or thereafter."

Ryan, LLC was the first party to challenge the lawfulness of the Non-Compete Rule. A group of trade associations led by the United States Chamber of Commerce intervened in the case to challenge the Rule as well. Ryan and the intervenors had previously won a preliminary injunction and stay of the Rule.[\[1\]](#)

The court today re-affirmed its core holdings that (1) the Rule exceeded the FTC's statutory authority because the FTC does not have authority to promulgate substantive rules regarding unfair methods of competition and (2) the Rule is arbitrary and capricious, in violation of the Administrative Procedure Act, because the FTC failed to justify the nearly universal breadth of its ban. The court's summary judgment order applies nationwide.

The court's ruling means that the Non-Compete Rule will not take effect on September 4. The FTC cannot enforce it against anyone, non-competes that were enforceable before the rule

remain enforceable, and businesses and workers are free to enter into new non-competes. The FTC may appeal the ruling to the Fifth Circuit. The FTC has not yet indicated whether or when it may appeal.

[1] A discussion of that preliminary injunction is available [here](#).

**Gibson Dunn lawyers Eugene Scalia, Allyson N. Ho, Amir C. Tayrani, Andrew Kilberg, Elizabeth A. Kiernan, Aaron Hauptman, and Josh Zuckerman represent Ryan, LLC.**

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding the issues discussed in this update. Please contact the Gibson Dunn lawyer with whom you usually work, the authors, or any leader or member of the firm's Administrative Law & Regulatory, Labor & Employment, or Antitrust & Competition practice groups:

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