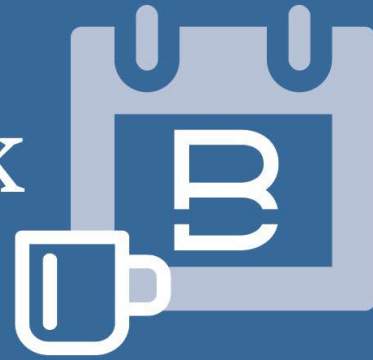


# The Work Week

Bassford Remele Employment Practice Group



June 24, 2024

Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

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## The Federal Trade Commission Faces Legal Challenges Against its Ban on Noncompete Clauses

[Michael J. Pfau](#)

Much of the legal and business communities have been abuzz about noncompetes since the Federal Trade Commission (“FTC”) [issued a final rule](#) that banned noncompete clauses nationwide on April 23, 2024. The rule requires employers to provide notice to workers other than senior executives who are bound by an existing noncompete that they will not be enforcing any noncompetes against them. According to the FTC, the rule would apply to independent contractors and anyone who works for any employer, paid or unpaid. The new rule originally was set to take effect 120 days after its publication in the Federal Register, which would have placed the enforcement date in early September.

As a preview of the legal challenges to come, when the FTC issued the proposed rule in January 2023, which was subject to a 90-day public comment period, the FTC received more than 26,000 comments on the proposed rule.

The first of these legal challenges is coming down the pike. On or before July 3, 2024, the Northern District of Texas is expected to rule on a preliminary injunction against the ban which could stop the FTC from implementing the rule while a challenge works its way through the courts. In *Ryan, LLC v. FTC*, U.S.D.C. N.D. Tex., No. 3:24-CV-00986-E, Judge Ada Brown took the matter under advisement, noting the court had enough information to rule on the matter without a hearing.

The United States Chamber of Commerce filed a similar lawsuit in the Eastern District of Texas. That lawsuit has been stayed, pending the briefing in *Ryan*. The Chamber of Commerce also successfully moved to intervene as a plaintiff in *Ryan*.

Another active lawsuit was filed and is pending in the Eastern District of Pennsylvania, *ATS Tree Services, LLC v. FTC*, E.D. Penn., No. 2:24-cv-01743. The court scheduled a hearing for July 10, 2024, and indicated its intent to rule on ATS's preliminary injunction request before July 23, 2024.

An injunction against the rule, which would prevent the FTC from implementing the rule, would allow courts—including possibly the United States Supreme Court—to rule on whether the FTC has the authority to ban noncompetes.

If one of the courts orders an injunction, that would give employers additional time to review their current noncompetes and policies to determine how they will address employment agreements going forward.

The Bassford Remele [Employment Law](#) group regularly assists with employment agreements and policies, including restrictive covenants like noncompete agreements. Please feel free to reach out to our team with any questions or to have the group review any agreements or policies to adequately prepare you in the event the FTC's rule ultimately takes effect.

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