

NEWS & INSIGHTS

FTC noncompete clause ban struck down by Texas judge

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A U.S. district court judge in Texas has blocked nationwide enforcement of the U.S. Federal Trade Commission's Final Rule which would have banned employers from including noncompete clauses in employment agreements. The rule had been scheduled to go into effect on Sept. 4.

U.S. District Judge Ada Brown ruled that the [FTC lacks the authority to ban noncompete](#) clauses and that the rule is "arbitrary and capricious," thus rendering the final rule unlawful.

In July, Brown temporarily blocked the rule, without issuing a nationwide injunction, while she considered the case

further. With [Tuesday's ruling](#), the ban is now null and void across the country.

According to published reports, an FTC spokesperson said the commission is “[seriously considering](#)” appealing Brown’s ruling. Brown is a Republican nominated by former President Donald Trump. The final rule was put forward by the Democrat-majority FTC and received strong support from the Biden administration.

The FTC passed the ban on noncompete clauses in employment agreements in April, contending those clauses [restrict people’s right to work](#). Employers use noncompete clauses to limit former employees to protect their business interests and goodwill and to prevent other organizations from “poaching” employees.

The FTC estimates that about 30 million American workers – approximately one in five – are under noncompete clauses restricting where they can work after leaving their current company.

Many businesses may have already had plans to notify their employees on Sept. 4 that the noncompete agreement they signed is no longer valid. While employers no longer have to enact that plan, they should keep those plans on file in the event of a successful FTC appeal.

If you have any questions on how to proceed, please contact [Steve Fleury](#), [Ben Pratt](#), [Rick Hackman](#), or any member of the [Saxton & Stump Labor and Employment Group](#).

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