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Preliminary Injunction Partially Blocks FTC Noncompete Ban

Client Bulletins

Authors: **J. Scott Humphrey**, **Margo Wolf O'Donnell**, **Charles B. Leuin**

Earlier today, a federal court in Texas made a preliminary ruling that partially blocks the FTC's rule that rendered most noncompetes in this country unenforceable (the "FTC Ban"). The FTC's Ban was set to go into effect on September 4, 2024. Judge Ada Brown of the United States District Court for the Northern District of Texas granted a preliminary injunction postponing the effective date of the FTC's Ban, agreeing with the plaintiffs and plaintiff-intervenors that the FTC lacked substantive rulemaking authority with respect to what they deemed to be unfair methods of competition. The Court also held the FTC Ban to be arbitrary and capricious, and that the plaintiffs were likely to succeed on the merits. The Court indicated that it planned to make its final ruling on the merits on August 30, 2024. The case could then be appealed to the United States 5th Circuit Court of Appeals in New Orleans, which is known for its opposition to President Biden's policies.

Although today's order limits the delay of the enforcement of the FTC Ban to the plaintiff and plaintiff-intervenors in the case, there will be considerable efforts to convince this judge to block the FTC's Ban nationwide when she issues her final ruling on August 30. Additionally, another challenge to the FTC's Ban is set to be heard at a hearing in federal court in Philadelphia on July 10. We expect there to be significant litigation in the coming months relating to the enforceability of the FTC Ban, and we will keep you apprised of further developments.

Scott Humphrey at shumphrey@beneschlaw.com or 312.624.6420.

Margo Wolf O'Donnell at modonnell@beneschlaw.com or 312.212.4982.

Charles Leuin at cleuin@beneschlaw.com or 312.624.6344.

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J. Scott Humphrey

Partner, Chair Trade Secrets, Restrictive Covenants and Unfair Competition Practice Group
Litigation

T. 312.624.6420
shumphrey@beneschlaw.com



Margo Wolf O'Donnell

Partner; Co-Chair, Labor & Employment Practice Group; Co-Chair, Diversity, Equity and Inclusion Committee
Labor & Employment

T. 312.212.4982
modonnell@beneschlaw.com



Charles B. Leuin

Partner
Labor & Employment

T. 312.624.6344
cleuin@beneschlaw.com