The Federal Trade Commission ("FTC") announced the "Final Non-Compete Clause Rule" banning most post-employment non-compete clauses between employers and employees. This rule was set to take effect on September 4, 2024, however, on August 20, 2024, Judge Ada Brown of the U.S. District Court for the Northern District of Texas issued an order in Ryan, LLC v. Federal Trade Commission blocking enforcement and preventing the implementation of the FTC's final non-compete rule nationwide. Employers are not currently required to comply with the FTC's final rule by September 4th, including sending notices to current and former employees advising that their existing non-compete restrictions are no longer enforceable.

Judge Brown granted a summary judgment motion in favor of Ryan, LLC blocking any enforcement or implementation of the FTC's non-compete rule. The District Court held that: (1) the FTC exceeded its statutory authority in enacting the final rule under the Federal Trade Commission Act ("FTC Act"), and (2) the final rule is arbitrary and capricious under the Administrative Procedure Act.

The ruling blocking the FTC's final rule comes in the wake of two key United States District Court decisions in Florida and Pennsylvania, respectively issuing and declining to issue injunctions pertaining to the FTC's non-compete ban. The Florida District Court ruling in Properties of the Villages, Inc. v. Federal Trade Commission held that there is a substantial likelihood the non-compete rule exceeds the FTC's statutory authority under Sections 5 and 6 of the FTC Act, citing the FTC's historical lack of previous non-compete enforcement actions. The ruling in Ryan, LLC v. Federal Trade Commission effectively affirms and expands on the ruling in Properties of the Villages, Inc. v. Federal Trade Commission, finding that the FTC exceeded its statutory authority in enacting the non-compete ban because "the text and structure of the FTC Act reveal the FTC lacks substantive rulemaking authority with respect to unfair methods of competition under Section 6(g)," which the FTC's non-compete ban falls squarely within. The District Court in Ryan also found the rule to be arbitrary and capricious because it imposes a one-size fits all approach to every non-compete agreement with no end date, making the rule "unreasonably overbroad without a reasonable explanation."

The Ryan decision will likely be appealed, evidencing the unsettled nature of the battle between the FTC, employers, and other interest groups. However, the Ryan decision as it stands prevents the FTC's final rule going into effect on September 4, 2024. If these decisions are affirmed on appeal, a circuit split may arise surrounding the non-compete rule, increasing the potential that the Supreme Court must resolve the issue.