

WEBSTER, CHAMBERLAIN & BEAN, LLP – NONPROFIT ALERT

**FEDERAL COURT BLOCKS ENFORCEMENT OF FEDERAL TRADE COMMISSION
RULE BANNING NON-COMPETE CLAUSES**

The Federal Trade Commission's ("FTC") [ban](#) on most non-compete agreements nationwide, which was issued this past April and set to take effect on September 4th, has been blocked by a federal court in Texas. On August 20, U.S. District Judge Ada Brown granted a motion for summary judgment in the case that had been filed by the U.S. Chamber of Commerce as well as other plaintiffs.

The court concluded that the FTC exceeded its statutory authority in enacting the non-compete ban, noting that a nationwide ban on almost all non-compete agreements would cause "irreparable harm."

The FTC is considering an appeal of the court's decision. In the meantime, while the FTC now cannot seek broad enforcement of the non-compete ban, it can still seek enforcement on a more selective, case by case basis. The FTC has already indicated in the wake of this decision that it intends to adopt this enforcement approach for the time being. Any appeal sought by the FTC would likely take months, and employers are not prohibited in the meantime from entering into new non-compete agreements, nor need they take steps to inform individuals that existing non-competes are invalid.

Other cases regarding the FTC's ban have been brought in Florida and Pennsylvania, with diverging results. This most recent development suggests that the question of whether the FTC poses the authority to have issued and enforce this rule may end up in front of the Supreme Court. In the wake of the Court's overturning of *Chevron*, just this past June, the FTC will not be able to rely on deference to its own interpretation of its governing statute.

Disclaimer: This article is for informational purposes only, is intended to be a general summary of the law, and does not constitute legal advice, nor does it create an attorney-client relationship with you or any other reader. You should consult with counsel to determine applicable legal requirements in a specific fact situation.