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Texas Federal Court Denies Request to Expand Scope of Injunction Staying Federal Trade Commission's Non-Compete Rule

Law and the Workplace on **July 12, 2024**

In a motion for reconsideration filed on July 10, 2024, the plaintiffs in *Ryan LLC v. Federal Trade Commission*, No. 3:24-cv-00986-E (N.D. Tex. Apr. 23, 2024) urged the court to expand the scope of its limited preliminary injunction issued on July 3, 2024. The preliminary injunction was limited to only the named plaintiffs in the case and stayed the effective date and enforcement of the Federal Trade Commission's ("FTC") proposed final rule ("Final Rule") banning non-compete agreements only as to those plaintiffs. Plaintiffs' motion sought an injunction that would cover, at minimum, the members of the plaintiff associations: the U.S. Chamber of Commerce, Business Roundtable, Texas Association of Business, and Longview Chamber of Commerce. On July 11, 2024, the court denied plaintiffs' request in a summary order. The order is immediately appealable to the 5th Circuit. Even if no appeal is made, any question as to the scope of injunctive relief will be resolved by the court's final judgment on the merits, which it has stated it intends to issue by August 30, 2024, which may also be appealed.

The parties' briefings, whether filed in summary judgment or in an appeal, will undoubtedly re-visit this issue. It bears noting that in their motion for reconsideration, plaintiffs asserted two arguments for expanded injunctive relief. First, they argued that under Fifth Circuit and Supreme Court precedents, the scope of relief they seek under Section 705 of the Administrative Procedures Act is not party-restricted, and when an agency rule is deemed invalid by a court, it "may not be applied to anyone." Second, plaintiffs contended that where an association such as the U.S. Chamber of Commerce brings suit as a representative of its members rather than to prevent injury to itself, it is entitled to a remedy that must extend, at minimum, to its full membership in order for it to be meaningful. Plaintiffs argued that members of the U.S. Chamber of Commerce would have standing to sue in their own right, citing to declarations they had filed with the court outlining the concrete harms they would suffer from the Final Rule. Plaintiffs also noted that the court's discussion of irreparable injury in its July 3 decision was applicable to "businesses throughout the country."

We will keep you apprised of any further developments.

View original.

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