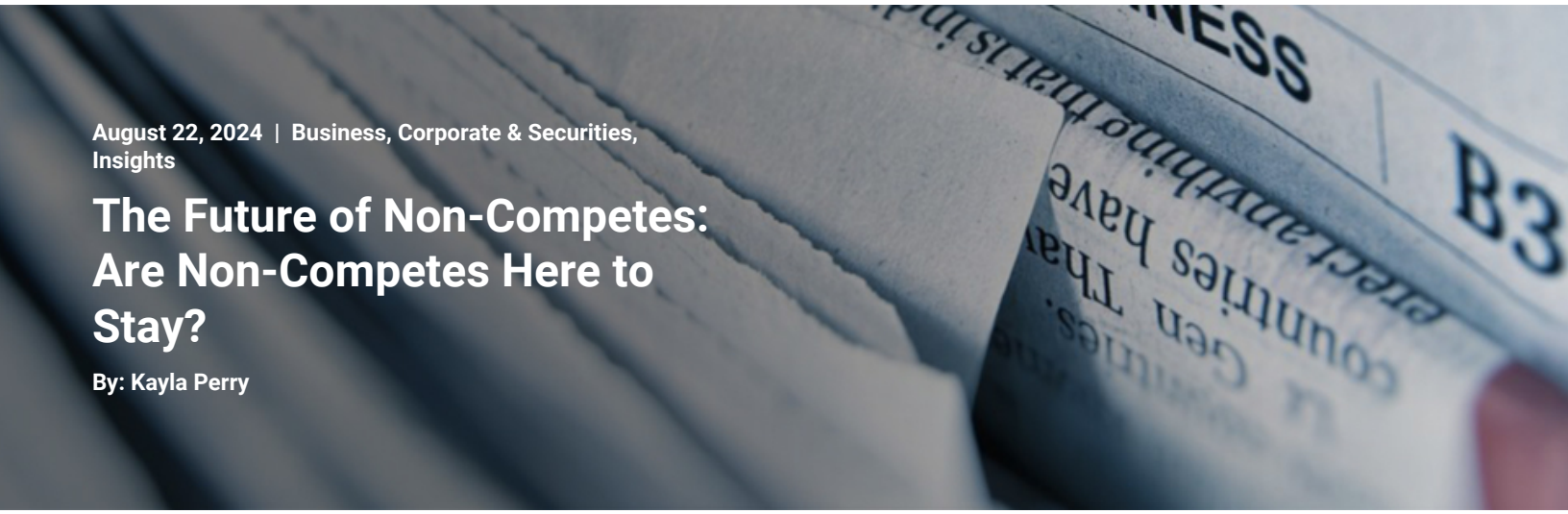


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The Future of Non-Competes: Are Non-Competes Here to Stay?

By: Kayla Perry

On August 20, 2024, U.S. District Judge Ada Brown of the Northern District of Texas issued an order barring the implementation of a federal ban on non-competition agreements. The Federal Trade Commission's ("FTC") rule banning most non-compete agreements (the "Rule") was set to go into effect September 4, 2024. Judge Brown concluded that (i) the FTC exceeded its statutory authority in implementing the Rule and (ii) the Rule is arbitrary and capricious. This decision comes after Judge Brown previously issued a limited preliminary injunction as to the named plaintiffs in July. Other courts, including federal courts in Pennsylvania and Florida, have previously issued mixed rulings on the matter.

The August 20, 2024 order blocks the enforcement of the Rule nationwide. As of now, employers are not required to send notice to employees concerning the status of their non-compete agreements or void existing non-compete agreements which would have otherwise been subject to the Rule. While an initial victory for employers across the country, uncertainty remains as to the Rule's future, as the FTC has already indicated it is considering filing an appeal.

Despite the Rule not currently being in effect at the federal level, employers remain subject to the non-compete laws of the states where their employees are located.

Rich May is continuing to monitor developments concerning the Rule. If the Rule does not ultimately become effective at the federal level, employers should still review their existing non-compete agreements to confirm compliance with applicable state laws. Employers with questions or concerns surrounding their current non-compete agreements or non-compete agreements generally should contact the author or another member of the Rich May team.

Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorney Kayla Perry.

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