

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

RYAN, LLC,

Plaintiff,

CHAMBER OF COMMERCE OF
THE UNITED STATES OF
AMERICA, *et al.*,

Plaintiff-Intervenors,

v.

FEDERAL TRADE COMMISSION,

Defendant.

CASE NO.: 3:24-CV-986-E

DEFENDANT’S MOTION FOR SUMMARY JUDGMENT

Defendant Federal Trade Commission (“the Commission”) moves under Federal Rule of Civil Procedure 56 for summary judgment on all of Plaintiff’s—Ryan, LLC—and Plaintiff-Intervenors’— the U.S. Chamber of Commerce, Business Roundtable, Texas Association of Business, and Longview Chamber of Commerce—claims. Plaintiff and Plaintiff-Intervenors seek to invalidate the Commission’s rule declaring most existing non-compete clauses in contracts (“non-competes”) to be unenforceable “unfair methods of competition,” subject to an exception for certain

senior executives, and banning the future use of most non-competes. Non-Compete Clause Rule, 89 Fed. Reg. 38,342 (May 7, 2024) (“Rule” or “Final Rule”).

The Commission is entitled to judgment as a matter of law because: (1) Congress authorized the Commission in clear language to prevent unfair methods of competition through both adjudication and rulemaking, and the Commission’s choice of rulemaking to address the anticompetitive effects of non-competes is both logical and unremarkable; (2) the major questions doctrine is not implicated, as the Rule falls squarely within the Commission’s delegated authority and expertise; (3) the Sherman Act’s framework is inapplicable, since the Federal Trade Commission Act was designed to supplement the Sherman Act and expressly confers the authority to prevent unfair methods of competition; (4) the Federal Trade Commission Act provides an intelligible principle by which the Rule can be measured; (5) the Rule is not unlawfully retroactive since it has only prospective effects; (6) Ryan’s removal challenge is foreclosed by binding precedent; and (7) the Commission easily satisfies the deferential arbitrary-and-capricious standard given its exhaustive study of non-competes and thorough economic justifications for the Rule.

This motion is accompanied by a brief that contains the contents required by Local Civil Rule 56.3(a) and Federal Rule of Civil Procedure 56(a). For the reasons explained in the accompanying brief, the Court should enter judgment for the Commission.

Dated: August 2, 2024

Respectfully submitted,

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General

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/s/ Rachael L. Westmoreland
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CERTIFICATE OF WORD COUNT

This document complies with the Court's word count requirement because it contains 298 words.

Dated: August 2, 2024

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CERTIFICATE OF SERVICE

On August 2, 2024, I electronically filed the above response with the clerk of court for the U.S. District Court, Northern District of Texas. I certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Rachael L. Westmoreland

Rachael L. Westmoreland