

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ATS TREE SERVICES, LLC,

Plaintiff,

v.

FEDERAL TRADE COMMISSION; LINA M. KHAN, in her official capacity as Chair of the Federal Trade Commission; and REBECCA KELLY SLAUGHTER, ALVARO BEDOYA, ANDREW N. FERGUSON, and MELISSA HOLYOAK, in their official capacities as Commissioners of the FTC,

Defendants.

Case No.: 2:24-cv-1743-KBH

MOTION TO STAY PROCEEDINGS

Plaintiff ATS Tree Services, LLC (“ATS”) respectfully requests that the Court stay all proceedings in this case pending the earliest of the following events: (1) the expiration of time for the Federal Trade Commission to file a notice of appeal of the final judgment in *Ryan, LLC v. FTC*, No. 3:24-cv-00986 (N.D. Tex.) (the “Ryan Judgment”); (2) if the Commission appeals the *Ryan* Judgment, a decision on the merits from the U.S. Court of Appeals for the Fifth Circuit; or (3) any other event that changes the effectiveness of the *Ryan* Judgment as to ATS. ATS further requests that the parties be required to submit a joint status report within 14 days of the earliest of any of the aforementioned events addressing whether the stay should continue. Should Defendants file a notice of appeal in *Ryan*, the parties should also be required to notify the Court via joint letter within 3 days after the notice of appeal is filed. The Court in *Ryan* vacated the Commission’s Non-Compete Clause Rule, 89 Fed. Reg. 38,342 (May 7, 2024) (the “Final Rule”), the legality of which

is the subject of this case. Given that the Final Rule has been vacated, there is presently no Final Rule for the parties to litigate. As such, a stay of this case is warranted unless and until the *Ryan* Judgment becomes ineffective as to ATS to conserve the resources of the parties and the Court. The Commission opposes the request for a stay, and intends to file an opposition setting forth the basis for its position. ATS also intends to submit a letter request to continue for 14 days the current briefing schedule for the parties' cross-motions for summary judgment—under which ATS must file its motion for summary judgment on September 20, 2024.

Dated: September 6, 2024.

Respectfully submitted,

/s/ Sean Radomski
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CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2024, I electronically filed the foregoing with the Clerk of the United States District Court for the Eastern District of Pennsylvania using the CM/ECF system, which sent notifications of such filing to all registered CM/ECF users.

DATED: September 6, 2024.

/s/ Sean Radomski
SEAN RADOMSKI