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## ***Sunbelt*: Emerging Opportunity for Enforcement of Restrictive Covenant in Illinois**

In *Sunbelt Rentals, Inc. v. Ehlers*, the Appellate Court of Illinois, Fourth District overturned 34 years of precedent in holding the “legitimate business interest” test invalid in connection with the enforcement of restrictive covenants. Instead, the court held that covenants should be analyzed based solely on whether they are reasonable from a time and territory perspective.

In *Sunbelt*, the Fourth District was tasked with deciding whether a noncompete provision in an employment contract was enforceable. Sunbelt, a national rental company, sought and was granted a preliminary injunction against a former employee and his new employer for violation of the contract’s restrictive covenant. The noncompete provision prohibited the employee from working for any competitor within 50 miles of his workplace for a period of a year after his employment terminated. The appellate court affirmed the lower court’s decision, basing its holding entirely on the finding that the covenant at issue was reasonable as to its time and geographical restrictions.

In this case, the court explored years of restrictive covenant treatment by Illinois’ district courts of appeal. Historically, Illinois courts have been hesitant to enforce these provisions. In 1975, the “legitimate business interest” test took hold in the Illinois courts. The test required plaintiffs to show the presence of a legitimate business interest in either confidential information or “near permanent customer relationships.” The test has been applied in every district court of appeal in Illinois.

### **CONTACT INFO:**

#### **Cleveland Office**

Jeffrey S. Dunlap  
Partner  
216.583.7026  
jdunlap@ulmer.com

1660 West 2nd St.  
Suite 1100  
Cleveland, Ohio  
44113-1448  
firm 216.583.7000  
fax 216.583.7001

#### **Cincinnati Office**

Regan N. Merkel  
Associate  
513.698.5156  
rmerkel@ulmer.com

600 Vine St.  
Suite 2800  
Cincinnati, Ohio  
45202-2409  
firm 513.698.5000  
fax 513.698.5001

www.ulmer.com

Notably, the Illinois Supreme Court has not taken a definitive position with regard to the “legitimate business interest” test. Sunbelt found that use of this test was inconsistent with the Supreme Court’s reasoning in recent restrictive covenant decisions, observing that the Supreme Court focused instead on whether the covenants’ temporal and geographic restrictions were reasonable.

By rejecting the application of the “legitimate business interest” test, the Fourth District set itself apart from its sister district courts of appeal in Illinois. As a result, and until and/or unless the Illinois Supreme Court addresses the issue, parties in Illinois seeking enforcement of a restrictive covenant may want to bring suit in the Fourth District’s jurisdiction where there is now one less hurdle to enforcement.

The Fourth District is based in Springfield and hears cases arising in the following 30 counties in central Illinois (Adams, Brown, Calhoun, Cass, Champaign, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Ford, Greene, Jersey, Livingston, Logan, Macon, Macoupin, Mason, McLean, Menard, Morgan, Moultrie, Piatt, Pike, Sangamon, Schuyler, Scott, Vermillion and Woodford).

For more information about this decision, feel free to contact one of the attorneys listed on this *Client Alert*.