

Eighth Circuit Finds Non-Compete May Be Assignable

The Eight U.S. Circuit Court of Appeals has concluded that the Arkansas Supreme Court would likely adopt the majority rule that a covenant not to compete can be assigned to the purchaser of a business, reports Jackson Lewis in its *Non-Compete and Trade Secrets Report*.

The case is *Stuart C. Irby Company, Inc. v. Tipton*, No. 14-1970 and 14-2682 (8th Cir. Aug. 6, 2015).

The appellate court reversed an across-the board win for defendants in this Arkansas non-compete dispute, disagreeing with the district court on almost every point, writes V. John Ella and James R. Mulroy of Jackson Lewis. They report that one of the take-aways of the ruling is that assignability of restrictive covenants is often a source of confusion, and best addressed explicitly at the drafting stage, even if no merger or acquisition is on the horizon.

[Read the article.](#)