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The Evolving Treatment of *Fifield v. Premier Dealer Services, Inc.*

In *Fifield v. Premier Dealer Services, Inc.*, an Illinois Appellate Court determined that, absent other consideration, at-will employment must continue for two years in order to constitute consideration for the enforcement of competition restrictions. Clients continue to ask how *Fifield* has been applied by subsequent courts. So far, the results have been mixed. This month, the United States District Court for the Northern District of Illinois rejected *Fifield's* bright line test in the case of *Bankers Life and Casualty Co. v. Miller*, 2015 U.S. Dist. LEXIS 14337 (N.D. Ill. Feb. 6, 2015). In doing so, Judge Shah explained that in light of the Illinois Supreme Court's recent decision emphasizing the need to consider the totality of the circumstances in evaluating competition restrictions, the Illinois Supreme Court "would not adopt a bright-line rule requiring continued employment for at least two years in all cases." *Bankers Life*, at *11-12. Previously, Judge Castillo too rejected *Fifield's* bright-line test in *Montel Aetnastak, Inc. v. Miessen*, 998 F. Supp. 2d 694 (N.D. Ill. 2014). However, Judge Holderman reached a different result in *Instant Technology, LLC v. Defazio*, 2014 U.S. Dist. LEXIS 61232 (N.D. Ill. May 2, 2014) and determined that competition restrictions were not enforceable against employees who had worked for 10, 19, and 21 months and received only that employment as consideration for the restrictions. *Instant Technology* is currently on appeal. So far, however, the score in the United States District Court for the Northern District of Illinois is 2-1 against *Fifield's* bright-line test.

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