

## Tennessee Court Of Appeals Issues New Guidance On Trade Secret Issues

William S. Rutchow | August 28, 2014

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On August 19, 2014, the Tennessee Court of Appeals became the first Tennessee appellate court to address the scope to which Tennessee's Uniform Trade Secret Act (TUTSA) preempts common law claims related to unfair competition and misuse of confidential information. In *Ram Tool & Supply Co., Inc. v. HD Supply Construction Supply, Ltd.*, the Tennessee Court of Appeals adopted the reasoning and rationale of one of the most influential opinions in the country on TUTSA's preemptive scope: *Hauck Manufacturing Co. v. ASTEC Industries, Inc.* The *Hauck* opinion was authored by Judge Collier of the U.S. District Court for the Eastern District of Tennessee at Chattanooga.

We discussed the *Hauck* decision and other TUTSA issues at length in our September 2013 blog post, "[How to Protect Confidential Business Information in Tennessee.](#)" In *Hauck*, Judge Collier adopted the "same proof" standard for TUTSA preemption. Under this standard, "a claim will be preempted when it necessarily rises or falls based on whether the defendant is found to have 'misappropriated' a 'trade secret' as those terms are defined in the UTSA." In the recently decided *Ram Tool* case, the Tennessee Court of Appeals adopted this "same proof" standard from *Hauck* to dismiss common law breach of fiduciary duty, breach of duty of loyalty, intentional interference and civil conspiracy claims to the extent such claims were based upon misappropriation of trade secrets.

What the Tennessee Court of Appeals confirmed in *Ram Tool* is that most non-TUTSA claims in unfair competition cases will no longer be viable if the employer claims that the employee, as part of his or her alleged wrongdoing, misused confidential information.

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**August 28, 2014 | TAGS: [civil conspiracy](#), [confidential information](#), [duty of loyalty](#), [fiduciary duty](#), [Inc. v. HD Supply Construction Supply](#), [intentional interference](#), [Judge Collier](#), [LTD](#), [misappropriation of trade secrets](#), [Ram Tool & Supply Co.](#), [Tennessee Court of Appeals](#), [Tennessee Uniform Trade Secret Act](#), [TUTSA](#), [unfair competition](#), [United States District Court for the Eastern District of Tennessee at Chattanooga](#), ["same proof" standard](#).**

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