

Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed October 8, 2008.

Not final until disposition of timely filed motion for rehearing.

No. 3D08-114

Lower Tribunal No. 06-6709

Tri-County Concrete Products, Inc., a Florida corporation,
Appellant,

vs.

Michael Lower,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Sarah I. Zabel,
Judge.

Wampler Buchanan Walker Chabrow Banciella & Stanley, P.A., Joseph R.
Buchanan, and Ricardo A. Banciella, for appellant.

Greenspoon Marde, P.A., and Mitchell D. Adler, for appellee.

Before GERSTEN, C.J., and COPE and SALTER, JJ.

GERSTEN, C.J.

Tri-County Concrete Products, Inc., appeals a final judgment denying
declaratory and injunctive relief against Michael Lower for the alleged breach of a

non-compete agreement. We affirm the final judgment, but remand for the trial court to strike that portion of the judgment stating that covenants not to compete are narrowly read and construed against restraint of trade or commerce. See § 542.335(1)(h), Fla. Stat. (2006) (prohibiting the use of any contract construction rule that requires the court to construe a restrictive covenant narrowly and against the restraint); Dade County Sch. Bd. v. Radio Station WQBA, 731 So. 2d 638, 644-645 (Fla. 1999) (directing affirmance of a trial court decision reaching a correct result even if the appellate court disagrees with the trial court's reasoning).

Affirmed and remanded with instructions.