IN THE COURT OF APPEALS OF IOWA

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No. 7-734 / 96-1582

HOMECARE HELPING HAND, INC.,

Plaintiff-Appellee,

vs.

JULIE WEIDEMANN,

Defendant-Appellant.

FILED
MAR 27 1998
CLERK SUPREME COURT

Appeal from the Iowa District Court for Fayette County, George L. Stigler and Margaret Lingreen, Judges.

The defendant, a former employee of the plaintiff, appeals from the district court's ruling granting the plaintiff specific performance on a covenant prohibiting the defendant from competing with the plaintiff. **AFFIRMED BY OPERATION OF LAW.**

James S. Updegraff, West Union, for appellant.

Jacques D. Schira and Kent A. Balduchi of Jacques D. Shira, P.C., Des Moines, for appellee.

Heard by Cady, C.J., and Sackett, and Vogel, JJ., but decided en banc.

PER CURIAM

The court being equally divided the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1997).

AFFIRMED.

For affirmance: Huitink, J., Streit, and Vogel, JJ.

For reversal: Cady, C.J., Sackett, and Mahan, JJ.