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## BLOGS

State Franchise and Dealer Laws

# California Federal Court Rejects Negligence *Per Se* Claim Based on Alleged Failure to Make Disclosures Under the FTC Franchise Rule

A federal court has ruled that a plaintiff could not state a claim for negligence *per se* based on a defendant's alleged failure to comply with the disclosure requirements under the FTC's Franchise Rule. In *G.P.P. Inc. v. Guardian Protection Products*, 2015 U.S. Dist. LEXIS 85999 (E.D. Cal June 30, 2015), a distributor, Guardian Innovative Solutions ("GIS"), brought suit against its supplier, Guardian, regarding numerous distribution contracts covering multiple regions across the United States. GIS's central allegation was that the distribution agreements between the parties created a franchise relationship under federal law, and that Guardian had failed to provide disclosures required under the FTC's Franchise Rule.

On Guardian's motion to dismiss, the court agreed that GIS failed to state a claim for negligence *per se*, because the FTC Franchise Rule itself confers no private right of action and because California law recognized no other cognizable claim for ordinary negligence based on the alleged failure to make disclosures. The doctrine of negligence *per se* provides that conduct prescribed by a statute has been adopted as the standard of care for a reasonable person in certain circumstances, and therefore a violation of such a statute will be presumed to be negligence. The court, however, noted that the doctrine does not create an independent cause of action when the allegations in the complaint disclose no underlying tort duty.

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