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BLOGS
Contracts

Colorado Court Applies UCC to Dealership Agreement

A Colorado federal district court recently held that the Colorado Uniform Commercial Code governed a dealership agreement in *Precision Fitness Equip., Inc. v. Nautilus, Inc.*, 2011 U.S. Dist. LEXIS 13576 (D. Colo. Feb. 2, 2011). This case required the court to consider the admissibility of extrinsic evidence to interpret a contract provision, an issue that may be decided differently depending on whether the UCC or the common law applies. To make this determination, Colorado courts look to whether the primary purpose of the contract is the sale of goods or services. Since the Colorado Supreme Court had not addressed the proper classification of a dealership or distributorship agreement, the federal court looked to decisions from other courts and found that a strong majority of jurisdictions have concluded that the UCC governed dealership and distributorship agreements. In addition, the court found that the primary purpose of the contract before it was the sale of Nautilus' goods. Accordingly, the court held that the UCC governed the agreement.

The court discussed *Rocky Mountain Chocolate Factory, Inc. v. SDMS, Inc.*, No. 06-cv-11212-WYD-BNB, 2007 WL 4268962, at *4-5 (D. Colo. Nov. 30, 2007), which held that the Colorado UCC was inapplicable to a franchise agreement. The *Rocky Mountain* court found that the primary purpose of the agreement was not the sale of goods, but rather "allowing and enabling Defendants to set up and operate a franchise and use its marks and products." However, the *Precision Fitness* court did not view *Rocky Mountain* as controlling because it was "an unreported decision, and its facts are distinguishable."