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## BLOGS

### Terminations

# Court Declines to Uphold Termination Without Cause

The United States District Court for the Southern District of New York has granted a distributor's motion for judgment on the pleadings, holding that its distribution agreement could not be terminated without cause. *Neopharm Ltd. v. Wyeth-Ayerst Int'l LLC*, 2016 WL 1076931 (S.D.N.Y. Mar. 18, 2016). Neopharm distributed vaccines manufactured by the defendant, Wyeth, pursuant to a distribution agreement signed in 2002. Originally, the agreement permitted either party to terminate the relationship without cause upon three years' notice. In 2009, in response to a separate contract Neopharm had reached to distribute one of Wyeth's vaccines to the Israeli Ministry of Health, Neopharm and Wyeth amended their agreement so that neither party could issue the three years' notice required for termination until all business with the Ministry of Health had concluded. A few years later, while Neopharm's agreement with the Ministry was still in effect, Wyeth sent Neopharm a letter purporting to terminate their agreement immediately.

The court held that the 2009 amendment prohibited Wyeth's unilateral termination of the distribution agreement without cause. Wyeth contended that a separate section of the agreement permitted it to bypass the three-year notice period and terminate the relationship by paying a specified sum to Neopharm, which Wyeth had already done. The court reasoned, however, that Wyeth's proposed interpretation would render the 2009 amendment meaningless and that the amended agreement precluded any unilateral, without-cause termination during the period in which Neopharm's agreement with the Ministry of Health remained in force. Thus, the court granted Neopharm's motion and entered a declaratory judgment that Wyeth had violated the terms of the parties' agreement by purporting to terminate the contract.

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