

**BLOGS**

Choice of Law

Court Finds Minnesota Sales Representative Act Not Applicable Despite the Parties' Choice of Minnesota Law

The United States District Court for the District of Minnesota recently held that the selection of Minnesota law in a sales representative agreement did not have the effect of incorporating the Minnesota Termination of Sales Representative Act (MTSRA), where the facts of the case did not otherwise result in its application. *North Coast Tech. Sales, Inc. v. Pentair Tech. Prods., Inc.*, 2013 U.S. Dist. LEXIS 28368 (D. Minn. Mar. 13, 2013). Gray Plant Mooty represented the defendant manufacturer in this case. The dispute arose when Pentair sent a notice advising the sales representative that it was reducing the representative's responsibilities, and later that it was terminating the agreement. The sales representative sued, alleging that Pentair's actions violated the MTSRA's requirement that a manufacturer provide ninety days' notice of a breach and a sixty-day cure period prior to terminating a sales representative agreement. In response, Pentair moved to dismiss the MTSRA claim on the ground that the sales representative was located outside of Minnesota and did not sell products in Minnesota, thus was not protected. The sales representative in turn pointed to a choice-of-law provision in its agreement with Pentair, which stated that the contract "will be deemed to have been made in and will be construed in accordance with and governed by the laws of the State of Minnesota," and argued that it was entitled to the MTSRA's protections.

The Minnesota federal court found that the choice-of-law clause merely specified the substantive law under which the contract was to be construed. The clause did not invoke the substantive protections of the MTSRA where the statute itself did not apply to the relationship between the parties. By its terms, the MTSRA protects only representatives who at some point are residents of, or maintain their principal place of business in, Minnesota, or whose geographical territory includes part or all of the state. This sales representative did not fall within the definition. In the court's words, "the choice-of-law clause applies Minnesota law; it does not *change* Minnesota law."

This ruling could have broad implications for the construction of not just MTSRA, but of franchise agreements and other contracts that select a protective state law which inherently restricts the class of parties it protects.

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