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BLOGS

Terminations

Dealer Fails to State a Claim Under Indiana Franchise Act but Can Proceed With Unfair Practices Claim

Meanwhile, the United States District Court for the Northern District of Indiana granted in part and denied in part a manufacturer's motion to dismiss claims arising from the termination of a dealership agreement in *Ervin Equipment Inc. v. Wabash National Corp.*, 2016 WL 2892132 (N.D. Ind. May 17, 2016). Ervin entered into a dealership agreement with semitrailer manufacturer Wabash that granted Ervin the right to sell Wabash products in a territory that covered parts of Texas and all of Mexico. After several years, during which Ervin repeatedly sold Wabash products outside of its territory, prompting complaints from other Wabash dealers, Wabash gave Ervin notice of its intent to terminate the agreement. Ervin filed suit, alleging that Wabash violated the Indiana unfair practices statute and the Indiana Franchise Act ("IFA") by terminating the agreement without good cause.

The court first determined that Wabash granted Ervin a franchise within the meaning of the Indiana unfair practices statute because Ervin was a dealer that had the right to use Wabash's trademarks and trade names, and the parties shared a community of interest in the marketing of Wabash trailers. The court then denied Wabash's motion to dismiss Ervin's claim under that statute because questions of fact existed as to whether Wabash had good cause to terminate the parties' agreement and whether it provided sufficient notice to Ervin. Turning to Ervin's IFA claim, the court noted that in order to create a franchise relationship under the statute, the agreement at issue must require the use of a marketing plan prescribed in substantial part by the franchisor. Because the parties' agreement provided that Ervin controlled marketing decisions, the court concluded that Ervin had failed to sufficiently allege a claim under the IFA.

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