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## BLOGS

Fraud/Misrepresentation

# Dealer Fails to State Fraudulent Concealment Claim Against Manufacturer Seeking to Open New Location

A federal court in Colorado dismissed a car dealer's claim of fraudulent concealment against its manufacturer in *European Motorcars of Littleton, Inc. v. Mercedes-Benz USA, LLC*, 2017 WL 2629133 (D. Colo. June 19, 2017). The controversy arose when Mercedes-Benz USA ("MBUSA") entered into an agreement to establish a new dealership several miles from plaintiff Mercedes-Benz of Littleton ("MBOL"). MBOL contended MBUSA had hid its intention to establish a new dealership nearby. The court dismissed the claim, holding that MBUSA had no duty to disclose its intention.

Applying Colorado law, the court observed that in the absence of a prior representation requiring correction, a duty to disclose arises only when a dealer has placed trust or confidence in the manufacturer beyond that which is typical of such a relationship, or when the dealer could have reasonably expected disclosure based on objective circumstances. MBOL contended that it had placed trust in MBUSA by investing in upgrades to its facilities. However, the court concluded that this action was insufficient to meet MBOL's burden to show that it had placed trust and confidence in MBUSA beyond that inherent in every manufacturer/dealer relationship. Furthermore, the court determined that MBUSA took steps, through its contract language, to discourage MBOL from expecting open disclosure. For example, the parties' dealer agreement permitted MBUSA to establish a new dealership at any time. Thus, MBOL had not adequately alleged that objective circumstances created a reasonable expectation of disclosure.

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