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## BLOGS

### Discrimination

# Indiana Court Allows Evidence of Concessions to Out-of-State Franchisees to Show Discrimination Under the IDFPA

The United States District Court for the District of Indiana ruled on several motions in limine related to franchisee's claims under the Indiana Deceptive Franchise Practices Act ("IDFPA") in *Andy Mohr Truck Center, Inc. v. Volvo Trucks*, 2015 U.S. Dist. LEXIS 93817 (S.D. Ind. July 20, 2015), and declined to bar the plaintiff franchisee from presenting evidence showing concessions offered to franchisees *in other states*. The court was not persuaded by Volvo's argument that the IDFPA is properly construed as applying only to discrimination among Indiana franchisees. The plain language of the IDFPA does not place a geographic limitation on either the type of prohibited discrimination or the definition of a "franchisee." Although some other states' franchise antidiscrimination statutes are written for domestic application only, Indiana's statute contains no geographic limitation. The court further found that Volvo waived any argument to ban evidence of out-of-state concessions based on the dormant commerce clause because it failed to raise that argument until the eve of trial. The court held Volvo was essentially improperly seeking judgment as a matter of law through its motion in limine.

The court did, however, grant Volvo's motion to bar Andy Mohr from introducing evidence of concessions offered to nonfranchisees as direct evidence of discrimination. The court found that the plain language of the IDFPA bars discrimination only among franchisees. Andy Mohr would be allowed to introduce evidence that Volvo offered more favorable concessions to nonfranchisees for limited rebuttal purposes only. For example, if Volvo argued that it was not financially able to offer a certain concession, then Andy Mohr would be allowed to rebut the assertion by showing that Volvo did offer similar concessions to nonfranchisees.

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