

BLOGS

Distributor and Dealer Terminations

Missouri Court Addresses Challenge to Expert Opinion on Dealer Termination Damages

A dealer named Tri-State Hardware filed a three-count petition in federal court in Missouri alleging that John Deere wrongfully terminated Tri-State's right to sell the manufacturer's line of products and services. *Tri State Hardware, Inc. v. John Deere Co.*, 2007 WL 4287867 (W.D. Mo. Dec. 6, 2007). In support of its claims, Tri-State submitted a certified public accountant's opinion on future profits allegedly lost because of the termination. The court generally allowed the affidavit, as there were reasonable disputes between the parties over both assumed facts and proper methods of calculating damages, and the expert's decision to assume facts as alleged by the plaintiff and to opt for one damages calculation method over another did not render his report inadmissible.

The court did, however, find that the expert's report and affidavit was deficient in several respects. Most notably for parties in other cases, the court struck all portions of the report that related to the son of Tri-State's owners/operators. The report calculated damages beyond the owners' life expectancy on the assumption that their son would take over the business. The court found that assumption to be overly speculative.