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State Franchise Laws/Violations/Terminations

New Jersey Appellate Court Confirms Terminated Retailer Is Not in a Franchise Relationship with Manufacturer

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A New Jersey appellate court affirmed a state trial court’s ruling that a terminated retailer of custom outdoor kitchens was not in a franchise relationship with a manufacturer of outdoor grills and that the New Jersey Franchise Practices Act (NJFPA) did not apply to their termination. *N.A.R, Inc. v. E. Outdoor Furnishings*, 2025 WL 287497 (N.J. Super. Ct. App. Div. Jan. 24, 2025). In 2010, Eastern Outdoor Furnishings, a retailer of custom outdoor kitchens, began selling grills by AMD Direct, a manufacturer of outdoor grills. Eastern Outdoor purchased the grills and other products from AMD on a wholesale distributorship basis. In 2019, AMD terminated Eastern Outdoor’s wholesale distributorship in favor of a competitor. At the time of the termination, Eastern Outdoor was in possession of AMD grills that it had ordered but had not yet paid for. N.A.R., a collection agency and assignee of the purported debt, filed suit against Eastern Outdoor to collect on the amount owed. In turn, Eastern Outdoor filed a third-party complaint against AMD alleging a violation of its franchise rights under the NJFPA. AMD moved for summary judgment and sought dismissal of the third-party complaint. The trial court granted AMD summary judgment, concluding that Eastern Outdoor could not prove the existence of a “written agreement” to satisfy the first element of the NJFPA test to establish a franchise. Eastern Outdoor appealed.

The appellate court affirmed, concluding that Eastern Outdoor failed to establish a written arrangement evidencing a franchise. Eastern Outdoor argued that the NJFPA does not require an agreement or contract, and that one or multiple writings could constitute a written arrangement under the statute. The appellate court agreed that the NJFPA does not require a fully integrated and comprehensive written franchise agreement in order to create a franchise, and held that a series of documents can create a franchise if they are documents in which the franchisor has granted the franchisee “a license to use a trade name, trade mark, service mark, or related characteristics” and in which there is a “community of interest in the marketing of goods or services.” Eastern Outdoor provided various documents in an attempt to demonstrate the existence of a franchise, including (i) invoices; (ii) an email describing AMD and Eastern Outdoor as “trusted partners”; (iii) AMD websites referring to Eastern Outdoor as the “point of contact, distributor, Director of Sales, or the like”; (iv) catalogs designed by AMD entitled “Summerset...by Eastern Outdoor”; and (v) a letter referencing the “distributor arrangement” between the parties. The appellate court held that

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although the documents reflected the history of the parties' business relationship, they did not satisfy the NJFPA's requirement of a writing in which AMD "grant[ed]...a license to [Eastern Outdoor] to use [its] trade name, trade mark, service mark, or related characteristics." Eastern Outdoor used AMD's logos and other intellectual property in selling the AMD grills as a wholesale distributor but AMD never granted Eastern Outdoor a license to do so in writing. As such, the appellate court affirmed the trial court's dismissal of Eastern Outdoor's franchise claims under the NJFPA.