

A solid yellow right-angled triangle pointing towards the top-left corner.

## BLOGS

State Franchise and Dealer Laws

# New Jersey State Court Finds Constructive Termination of Dealer Violates New Jersey Franchise Practices Act

A New Jersey appeals court has held that the constructive termination of a dealer agreement violates the New Jersey Franchise Practices Act. *Maintainco, Inc. v. Mitsubishi Caterpillar Forklift Am., Inc.*, 2009 WL 2365960 (N.J. Super. A.D., July 30, 2009). Plaintiff Maintainco signed an agreement that, it believed, made it the exclusive Mitsubishi dealer in a designated territory in New Jersey. Mitsubishi subsequently appointed Mid-Atlantic as a dealer in the plaintiff's territory, under terms that gave Mid-Atlantic a competitive advantage over the plaintiff.

The New Jersey appeals court agreed that the parties' course of dealing, including their contracts, supported the conclusion that the plaintiff was the exclusive Mitsubishi dealer in the territory and that the appointment of Mid-Atlantic constituted a breach of the plaintiff's exclusivity rights. The appellate court also agreed that stripping the plaintiff of its exclusivity rights constituted constructive termination and violated the statute.