

A yellow triangle pointing downwards, located to the left of the 'BLOGS' header.

BLOGS

State Franchise and Dealer Laws

Plaintiff Successfully Pleads a “Place of Business” in New Jersey

In *Ocean City Express Co., Inc. v. Atlas Van Lines, Inc.*, 2014 U.S. Dist. LEXIS 127231 (D.N.J. Sept. 11, 2014), the United States District Court for New Jersey denied Atlas’ motion to dismiss the New Jersey Franchise Practices Act (NJFPA) claim because the amended complaint adequately pled the “place of business” element. The court found the complaint sufficient to establish the agent’s office constituted a “place of business” under the NJFPA because it was more than merely an office, warehouse, storage facility, residence, or distribution center. As pleaded, it was an actual sales location where sales personnel worked, corresponded with customers, and assisted walk-in customers. It was also the retail address used in advertisements and the location at which the agent displayed Atlas’ signage and distributed marketing materials.

Atlas also sought dismissal on the grounds that the Federal Aviation Administration Authorization Act (FAAAA) preempted the application of the NJFPA to the termination of the parties’ relationship. The court explained that the FAAAA may preempt if state law imposes a significant impact on “carrier rates, routes, or services” related to the transportation of property, but Atlas failed to provide support for its contention that the NJFPA’s good cause requirement for termination had any such an impact.

Related People

Maisa Frank

Partner

Washington, D.C.

202.295.2209

maisa.frank@lathropgpm.com