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## BLOGS

State Franchise and Dealer Laws

# Repurchase of Inventory Claim Survives Summary Judgment Under Virginia Equipment Dealers Protection Act

In *James River Cos. v. BB Buggies, Inc.*, No. 4:13-cv-00004 (W.D. Va. Sep. 6, 2013), the United States District Court for the Western District of Virginia denied summary judgment for BB Buggies on a dealer's claim for failure to repurchase inventory pursuant to the Virginia Equipment Dealers Protection Act ("VEDPA"), but granted summary judgment to BB Buggies' parent company. The parties' relationship began in 2006 when James River entered into an oral dealer agreement with Bad Boy Enterprises, LLC and purchased several buggies. In October 2010, Bad Boy sold its assets to BB Buggies, but James River and BB Buggies did little business thereafter. When BB Buggies refused the dealer's demand to repurchase pursuant to the VEDPA, James River sued. BB Buggies moved for summary judgment, arguing that the inventory was expressly exempt from the statutory requirements because (1) the unsold products were not "current models", (2) the inventory was purchased more than 36 months prior to notice of termination of the agreement, (3) James River did not have clear title, and (4) the equipment was "not in new, unused, undamaged, and complete condition."

The court found that the applicability of the first two statutory exceptions hinged on when the parties' dealer relationship ended. If it ended by "non-continuance" in 2010 when Bad Boy sold its assets, then neither exception applied because the buggies were purchased within three years prior to that date and, though some were no longer being manufactured, they still may have been "current," as defined in the statute, if they were still listed in BB Buggies' then-current sales manual. If, however, the relationship was not terminated until James River sent a termination letter in November 2011, then summary judgment would be appropriate. Because there were material fact disputes on each issue, the court declined to grant summary judgment. Conflicting evidence regarding encumbrances on the inventory and the condition of the buggies also precluded summary judgment based on the other two statutory exceptions they raised.

BB's parent, Textron, did succeed in getting itself dismissed on summary judgment. The court found that Textron did not have an agreement with James River, so the VEDPA could not apply.

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