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## BLOGS

### Terminations

# Rhode Island Dealership Act Not Applied Retroactively

The United States District Court for the District of Rhode Island has addressed retroactive application of the Rhode Island Fair Dealership Act, which was passed into law in 2007. In *Pascale Service Corp. v. International Truck & Engine Corp.*, 2008 WL 2340399 (D.R.I. June 9, 2008), the court was presented with a unique set of facts. Under the terms of a 35-year-old distribution agreement, either party was permitted to terminate the parties' agreement "at any time without cause by giving written notice to the other party, specifying the effective date of termination." The manufacturer gave notice on April 9, 2007, for a termination to be effective May 10, 2007. At the dealer's request, this May 10 termination was postponed until June 30, 2007, to give the dealer an opportunity to wind down its business. In the intervening period (i.e., on June 14, 2007), the Act took effect. The Act, among other things, requires manufacturers to demonstrate "good cause" for termination of a dealership and to provide 90 days' written notice of termination and a 60-day cure period for most defaults.

After the Act went into effect, but before the extended termination date, the dealer sued to enjoin termination, asserting that the Act applied to its termination and that International was required to observe the notice periods. Under Rhode Island law, new statutes are not applied retroactively unless the statute is "remedial" in nature or the legislature has expressed a clear intent for retroactivity. "Remedial" statutes are distinguished from "substantive" statutes, in that remedial statutes offer or improve the remedy or procedure for obtaining a remedy for an existing legal right—but do not expand or limit existing rights. The court found that the Act was not remedial in nature because it creates new substantive rights, such as the 60 and 90 day notice and cure periods. In addition, the Act was not intended to be applied retroactively by its express terms. Because International gave notice of termination prior to the Act's stated effective date, the substantive notice and cure periods required by the Act did not apply to the termination. Accordingly, the court granted International's motion to dismiss the dealer's claims.