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BLOGS

Terminations

Unsigned Contract Does Not Create Binding Commitment to Distributor

The United States District Court for the Southern District of New York recently dismissed breach of contract and related claims brought against a manufacturer/supplier in connection with its termination of a long-time distributor because the parties had not signed a formal written distribution contract. In *National Gear & Piston, Inc. v. Cummings Power Systems, LLC*, 2012 U.S. Dist. LEXIS 72879 (S.D.N.Y. May 17, 2012), the defendant, a manufacturer and supplier of automotive components, had been selling products on a wholesale basis to the plaintiff-distributor since 1998. Although the parties had never entered into a formal written distribution agreement, the manufacturer sent its standard form of agreement to the distributor for signature in 2007. While the parties continued to do business together after that point, neither signed the form agreement.

According to the complaint, in 2009 the manufacturer changed the pricing structure under which it sold products to the distributor and prohibited the distributor from bidding on certain public transit authority supply contracts, allegedly reserving this business for itself. After the distributor violated that instruction, the manufacturer sent a written notice terminating the distribution relationship. The distributor then brought suit against the manufacturer, alleging that the unsigned distribution agreement was binding and that the manufacturer wrongfully terminated the relationship by failing to give sufficient detail regarding the distributor's default and by failing to advise it of its right to cure.

Finding in favor of the manufacturer, the court concluded that no binding contract existed between the parties. It noted that in considering whether a binding commitment exists when there is only an unsigned preliminary agreement between the parties, New York law considers the following factors: whether the contract expressly states that a written agreement must exist; whether all material terms have been agreed upon; whether there has been partial performance of the contract; and whether the agreement is of the type that is usually committed to writing. In determining that no contract existed between the parties, the court noted that although the distribution agreement specifically stated that the contract would become effective "upon the date fully executed" by both parties, neither party had actually signed the agreement. As a result, the court dismissed the distributor's breach of contract claim, along with several other causes of action that relied on the existence of a binding, ongoing agreement by the manufacturer to supply the distributor with products.