

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

## BLOGS

State Franchise and Dealer Laws

# Wisconsin Court Allows Terminated Distributor's Claims to Proceed Under WFDL

Last week a federal district court judge in Wisconsin issued a comprehensive opinion that elucidates what a terminated distributor or dealer must show to survive summary judgment under the Wisconsin Fair Dealership Law. The case is *Brio Corp. v. Meccano S.N.*, 2010 U.S. Dist. LEXIS 11711 (E.D. Wis. Feb. 10, 2010). In denying summary judgment to defendant Meccano, which is the maker of the "Erector" brand of toys, the court ultimately and simply determined that fact questions precluded summary judgment. But the length and detail of the court's opinion could recommend it as a helpful guide in future cases.

Two key components of the WFDL, and thus the court's opinion, are (1) whether there was a "community of interest" between the defendant and plaintiff Brio (which had exclusive distribution rights in the United States) and (2) whether Brio was "situated in" Wisconsin such that the WFDL applies. On the first point, the court found it particularly important that Brio was an exclusive distributor, and it was prohibited from selling competitive products. These facts and others were deemed sufficient for the court to find Meccano had Brio sufficiently "over the barrel" to at least create a triable issue on the community of interest element. The "situated in" Wisconsin issue was even stronger for the plaintiff. Although Brio made less than 5 percent of its overall sales in Wisconsin, it did have facilities and employees in the state, and was corporation formed under Wisconsin law.