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BLOGS

Terminations

Wisconsin District Court Finds Undisclosed Transfer of Dealership Constitutes Good Cause for Termination Under Texas Dealer Statute

The United States District Court for the Eastern District of Wisconsin recently ruled that a dealer's sale of its business without supplier consent constitutes good cause for the termination of a dealer agreement under the Texas Fair Practices of Equipment Manufacturers, Distributors, Wholesalers, and Dealers Act ("FPA"). *Texas Ujoints, LLC v. Dana Holding Corp.*, Bus. Franchise Guide 91 15,675 (CCH) (E.D. Wis. Dec. 21, 2015).

The court's decision constitutes a reversal of its prior grant of summary judgment in favor of the dealer, Texas Ujoints, as reported in [Issue 196](#) of *The GPMemorandum*.

In its original ruling, the court held that if a dealer agreement does not require the supplier's consent to an assignment, the dealer may freely assign the agreement without consent of the supplier. On Dana's motion for reconsideration, the court reversed itself and held that the FPA, in a provision the court had not previously considered, "unequivocally" states that the transfer of a controlling interest in a dealer's business without supplier consent constitutes good cause for termination under the FPA. The court also rejected an argument by Texas Ujoints that Dana had entered into a new dealer agreement with Texas Ujoints' new ownership by continuing to do business with the new owner. Dana was not aware of the ownership change, and the court concluded that "a party cannot surreptitiously enter into an agreement with a party."

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