

**BLOGS**

State Franchise and Dealer Laws

## Wisconsin Federal Court Applies Fair Dealership Law to Informal Distributorship

A federal court in the Western District of Wisconsin has granted partial summary judgment to a pizza distributor, holding that the Wisconsin Fair Dealership Law ("WFDL") applies to its relationship with its former manufacturer. *A&B Distrib., Inc. v. Heggie's Pizza, LLC*, 2019 WL 6118718 (W.D. Wis. Nov. 18, 2019). Plaintiff A&B Distributing is a one-man company that, over the course of 13 ½ years, sold pizzas made by Heggie's Pizza. Without ever entering into a written agreement, A&B would buy discounted pizzas from Heggie's and sell them to retail customers in northwest Wisconsin at full price. Heggie's avoided targeting A&B's customers and provided A&B with business leads in northwest Wisconsin. Heggie's also provided A&B with HEGGIES PIZZA advertising signs for A&B's customers. In 2018, the relationship started to deteriorate when Al Vucicevic, A&B's owner and sole employee, sought to exit the business and retire. A series of discussions culminated in an angry phone call that left Vucicevic with the impression that A&B's distributorship was terminated. When A&B's attorney wrote to Heggie's alleging wrongful termination under the Wisconsin Fair Dealership Law, Heggie's attorney admitted that the WFDL "apparently applie[d]" to the relationship. His response continued to terminate A&B's distributorship with 90 days' notice, unless A&B cured its defaults by undertaking a series of actions to address Heggie's allegations of mismanaged inventory and declining sales.

In the ensuing litigation, the parties cross-moved for summary judgment regarding the applicability of the WFDL and whether Heggie's wrongfully terminated the distributorship. The court found that the WFDL did apply, as (1) there was an agreement (even if oral) between the parties; (2) it provided for the sale or distribution of goods (pizza) and the use of the HEGGIES PIZZA trade name; and (3) there was a community of interest between the parties. In finding a community of interest, the court emphasized the length of the relationship, A&B's investments in a delivery truck, freezer, storage facility, and pizza ovens for its customers, as well as the fact that 99% of A&B's business consisted of selling pizza made by Heggie's. The court also noted that Heggie's assisted A&B in maintaining and developing its territory. Finally, while not a binding admission, the court noted the admission by Heggie's counsel in the termination notice that the WFDL applied. The court denied each parties' motion for summary judgment as to violation of the WFDL, finding that there were genuine issues of material fact as to when termination occurred and whether Heggie's had good cause to terminate.

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