

BLOGS

Duty of Good Faith and Fair Dealing

Wisconsin Federal Court Upholds Jury Verdict for Dealer on Claim for Breach of the Implied Covenant of Good Faith and Fair Dealing

A court has denied a manufacturer's motions for judgment as a matter of law and for a new trial after a jury awarded one of its dealers nearly half a million dollars on his claim that his distribution agreement was constructively terminated, resulting in a breach of the implied covenant of good faith and fair dealing. *Tilstra v. Bou-Matic, LLC*, 2014 U.S. Dist. LEXIS 131531 (W.D. Wis. Sept. 19, 2014). Although the parties' agreement expressly allowed the manufacturer, Bou-Matic, to alter the territory of its dealer, Tilstra, in its sole discretion, it also required good cause for termination or a substantial change in competitive circumstances. The court held that the jury reasonably concluded that Bou-Matic evaded the spirit of the termination clause by eliminating all of Tilstra's territory without making a showing of good cause. Although Tilstra was still able to use Bou-Matic's trademarks and hold itself out as a Bou-Matic dealer, taking away its territory ended the commercially meaningful aspects of the parties' contractual relationship, the court found.

The court also rejected Bou-Matic's argument that Tilstra's damages must be reduced because the distribution agreement expressly disallowed compensation for goodwill. The court observed that the contract only excluded compensation for goodwill *upon proper termination of the dealership agreement*—in other words, when and if Bou-Matic provided ninety days' written notice and good cause. The contract said nothing about limitations on damages in cases in which a breach occurs.

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