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(Publication page references are not available for this document.)

JAY WEISSMAN AND ASSOCIATES, ET AL. vs. ALTRA MARINE PRODUCTS, INC. AND  
OUTBOARD MARINE CORPORATION.  
91-30239-MAP

DATE OF VERDICT/SETTLEMENT: January 20, 1995

TOPIC: DEALER TERMINATION - BREACH OF CONTRACT - FRAUD AND DECEIT - PROMISSORY  
ESTOPPEL - BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING.

SUMMARY:

Result: \$6,000 Verdict

ATTORNEY:

Plaintiffs: Stewart T. Graham of Springfield, MA for plaintiffs.

Defendant's: John B. Stewart of Springfield, MA for defendant.

JUDGE: Ponsor

RANGE AMOUNT: \$1-49,999

STATE: Mass.

INJURIES:

DEALER TERMINATION - BREACH OF CONTRACT - FRAUD AND DECEIT - PROMISSORY ESTOPPEL -  
BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING.

FACTS:

The plaintiff in this action was a manufacturer's representative selling aluminum fishing boats for the defendant company. The plaintiff contended that the defendant wrongfully terminated the dealership without providing him with sufficient notice of termination as required per the dealership contract and breached an oral promise to renew the dealership for another year. The plaintiff's cause of action was grounded in theories of breach of contract, breach of the covenant of good faith and fair dealing, promissory estoppel and fraud.

The plaintiff had worked as a manufacturer's representative selling aluminum boats for Altra Marine Products for two years when Altra Marine was acquired by Outboard Marine Corporation. The plaintiff testified that at the time of the acquisition, he was promised that his dealership would remain in existence for another 18 months. At that time, his contract provided for another six months, but the plaintiff maintained that the defendant Outboard assured him that the contract would be renewed for another year. The plaintiff claimed he forewent other opportunities in reliance upon that promise. The defendant provided the plaintiff with notice that they were terminating the dealership 30 days prior to the expiration of the contract. The plaintiff contended that the defendant violated the dealership contract by failing to provide the plaintiff with 60 days notice of termination of the dealership. The plaintiff's motion for summary judgment was granted on the breach of contract claim. The issues of fraud, promissory estoppel, breach of the covenant of good faith and fair dealing, and breach of contract damages were tried before the jury.



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The defendant disputed the plaintiff's claim that an oral promise to continue the dealership for at least 18 more months was made to the plaintiff at the time of the acquisition. The defendant maintained that the plaintiff was merely advised that if the plaintiff did a good job, then the defendant would make every effort to continue the dealership. The defendant argued that although in retrospect it was admittedly inappropriate for the defendant to truncate the plaintiff's 60 day notice of termination to 30 days, as a practical matter the plaintiff suffered no damage as a result.

The plaintiff's breach of the covenant of good faith and fair dealing claim was based upon evidence allegedly indicating that the sales made by the plaintiff during the 30 day period after the notice of termination were not honored by the defendant. The plaintiff claimed \$45,000 in damages on the breach of contract claim and additionally claimed that \$3,800 worth of product order commissions were not paid to him on sales which he made during the 30 day period following notice of the termination. The defendant disputed certain of the commissions claimed.

The jury returned a verdict of \$4,500 on the breach of contract count and \$1,500 on the breach of the covenant of good faith and fair dealing count. The jury exonerated the defendant on the claims of promissory estoppel and fraud. The Unfair and Deceptive Trade Practices claim under G.L. c. 93A, Sec. 11 was tried to the

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Court: U.S. District Court, Springfield, Mass.

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