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RAYMOND LOSES USD14 MILLION DEALER SUIT

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A former Raymond dealer has successfully sued The Raymond Corporation for wrongful termination of its dealership contract and been awarded USD14 million by a District Court jury.

According to documents obtained by *Forkliftaction.com News*, the jury found Raymond had wrongfully mistreated Minnesota Supply Company (MSC) in terminating its dealership agreement in 1997.

At the time, MSC had been dealing Raymond's line of forklifts since 1947 and, under a separate agreement, was also selling Caterpillar forklifts.

According to MSC's complaint, filed in the US District Court for the District of Minnesota in 1999, Raymond and Caterpillar reached an agreement in December 1992 whereby Raymond would manufacture narrow-aisle forklifts for Caterpillar. The forklifts would be painted in Caterpillar colours, bear the Caterpillar name and be sold through Caterpillar dealers.

MSC, as a Caterpillar dealer, notified Raymond of its intention to sell the Caterpillar narrow-aisle forklifts in 1993, and alleged Raymond began threatening termination of its dealership agreement if MSC sold the forklifts.

Under the threat of termination, MSC said it was forced to agree to a revised agreement in October 1993 which:
~ Changed MSC's contract to a one-year term;
~ Gave Raymond semi-annual rights to terminate; and
~ Imposed "unreasonable" market share quotas which, if not met, even in circumstances beyond MSC's control, gave Raymond the right to terminate.

The agreement also required MSC to implement structural measures to separate the Raymond and Caterpillar lines, including:
~ Forcing MSC to establish two separate divisions for the Raymond and Caterpillar lines, including maintaining separate sites and two marketing divisions with separate general managers and sales people;
~ Separately advertising and marketing the two lines at trade shows, in mail outs, in the phone book and in all other media;
~ Segregating the two brands in MSC's rental fleet;
~ Maintaining separate service divisions, including separate service technicians and service trucks, inside parts and service specialists; and

~ Preparing and maintaining separate financial statements.

Raymond terminated MSC's dealership agreement in April 1997, saying MSC had sold other manufacturers' products and failed to meet the market share quota. MSC's sales territory was then given to Raymond's own subsidiary dealership, MSC alleged.

MSC's lawyer, Gary Leydig of Worker, Sitko & Hoffman LLC of Chicago, Illinois, said MSC lost profits due to the substantial cost and expense of having to maintain separate divisions. The total loss was more than USD14 million.

The jury entered its verdict on June 19 and awarded USD14,076,784 in damages against Raymond.

Mr Leydig said many manufacturers distributing products through independent dealers were "routinely" breaking dealership laws.

"The majority of (US) states have laws that prohibit arbitrary termination of independent dealers. Manufacturers are well aware of these laws but continue to impose contracts on dealers that give them complete freedom to terminate the relationship," he said.

"Hopefully verdicts like this will send a message."

Mr Leydig said MSC was now Caterpillar's dealer in Minnesota and western Wisconsin. He said an appeal by Raymond was possible.

Raymond was represented at the trial by lawyer James Niehaus, of Frantz Ward LLP of Cleveland, Ohio. Neither Mr Niehaus nor Raymond returned *Forkliftaction.com News's* calls.

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