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Chicago lawyer: "Case to educate dealers"

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A US attorney who helped a former Raymond dealer recover nearly USD13 million in lost profits said many manufacturers were “routinely conducting themselves in violation of state dealership laws”.

Gary Leydig, the attorney who represented Minnesota Supply Company (MSC) in its court battle against Raymond Corp, was commenting on the US Court of Appeals for the Eighth Circuit’s decision last week to deny Raymond Corp’s application for a rehearing.

On December 28, 2006, the Court of Appeals had affirmed a District Court judgement against Raymond, awarding USD12,864,117.54 to MSC. MSC sued Raymond in 1999 for wrongfully terminating its dealership agreement in 1997 (*Forkliftaction.com News #113*). *Forkliftaction.com News* reported in issue#113 that MSC lost profits of more than USD14 million, due to the cost of maintaining separate lines for Caterpillar and Raymond.

But Leydig said the forklift dealer lost profits due to the termination of its Raymond dealership, not expenses incurred for maintaining separate lines.

Raymond Corp president and CEO James J Malvaso said in a statement:
“We knew going in that our chances on this appeal were very slim. We are not surprised by the ruling. As I stated before, this is a sad example of the current state of our legal system.

“Our plans for this company will not be impacted in any way by the decision.”

Leydig said that, over the course of the case, MSC’s claims were looked at by a US magistrate judge, a US District Court judge, a 12-person jury and by three Circuit Court judges on the US Court of Appeals.

“They all came to the same conclusion that Raymond violated the Minnesota statute, wrongfully terminated MSC’s dealership and inflicted damages on MSC in excess of USD12.8 million.

“I hope the appellate court’s recent decisions and orders will cause Raymond, and others who think like Raymond, to reconsider the obviously self-serving and wrong-headed outlook on the greatest and fairest legal system in the world.

“A large part of my practice involves representing dealers. Many dealers are unaware that these and similar statutes exist for their protection. I hope this case educates dealers about their potential rights and causes manufacturers to draft fairer contracts and treat their dealers with the good faith and fairness these statutes require,” he said.

Leydig, from the Riordan, Fulkerson, Hupert & Coleman law firm, in Chicago, Illinois, specialises in business litigation and representing distributors and franchisees.

June 2003
US District Court jury finds Raymond wrongfully terminated dealership agreement, awards USD14 million to MSC.
January 2004
US District Court judge enters new judgement amount of USD12,864,117.54 after recalculating interest.
December 2006
US Court of Appeals affirms the US District Court’s decision.
March 1, 2007
US Court of Appeals denies Raymond’s application for rehearing.
March 5, 2007
US Court of Appeals awards MSC USD122,050.95 in fees and expenses incurred in responding to Raymond’s appeal. The trial judge had awarded MSC lawyer’s fees and litigation expenses of USD748,593.27 in early 2004.