

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

NEWCO ATLAS, INC.,
RESPONDENT

vs.

PARK RANGE CONSTRUCTION, INC.,
APPELLANT

WD69247

DATE: DECEMBER 16, 2008

Appeal from:
THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
THE HONORABLE SANDRA C. MIDKIFF, JUDGE

Appellate Judges:
Division Three: Howard, P.J., Ellis and Ahuja, JJ.

Attorneys:
Frank F. Sallee, Esq., Kansas City, MO, **for Respondent.**

Christopher F. Pickering, Shawnee, KS, **for Appellant.**

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS, WESTERN DISTRICT

NEWCO ATLAS, INC.,

Respondent

v.

PARK RANGE CONSTRUCTION, INC.,

Appellant

WD 69247

Jackson County, Missouri

Before Division Three Judges: Howard, P.J., Ellis and Ahuja, JJ.

Newco Atlas, Inc. filed a petition for declaratory judgment asking the trial court to declare that its termination of two distributorship contracts it entered into with Park Range Construction, Inc. was lawful. The trial court found that the termination was lawful, and that Park Range did not have a valid defense of breach of the implied covenant of good faith and fair dealing. The trial court also granted summary judgment in favor of Atlas on Park Range's counterclaims. Park Range appeals.

AFFIRMED.

Division Three holds:

Where the clear and unambiguous language of the contracts showed that the parties intended to treat "equipment and tools" separately from "products and materials," the trial court properly found that there was no restriction on Atlas's ability to sell products to dealers other than Park Range. Because one of the contracts did not address the duration or termination of the agreement, the parties entered into an at-will distributorship agreement. Therefore, Park Range's remedy was limited to the recoupment doctrine because Missouri law does not imply a covenant of good faith and fair dealing into at-will distributorship agreements.

Opinion by Howard, J.

December 16, 2008

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