

Victory for McV's Distribution & Franchising Practice Team

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PRACTICE AREAS

- Distribution & Franchising

McV Litigation News

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McV's Distribution & Franchising Practice Team scored a victory when on October 1, 2018, the Court of First Instance, San Juan Part, granted a motion to dismiss filed by Kmart Operations, LLC's ("Kmart") in a lawsuit under the Puerto Rico Dealers Act, Law 75-1964 as amended. The complaint alleged that Kmart and others had interfered with the distribution agreement between plaintiff and the main defendant.

Kmart's successful motion to dismiss relied on a clause in the distribution agreement which required that disputes between the plaintiff and the main defendant be litigated in a state or federal court located in Wisconsin. This type of contractual provision is known as a choice of forum clause.

The Court agreed with K-Mart's arguments in support of enforcing the choice of forum clause. It also agreed with the position that the remaining co-defendants should not face the expense and inconvenience of litigation while plaintiff and the main defendant litigated in Wisconsin.

After an argumentative hearing and post-hearing briefs, the Court stayed all discovery and held that the choice of forum clause was valid and dismissed the case with prejudice.

The result is significant because Law 75-1964 contains a provision prohibiting choice of forum clauses requiring local dealers or distributors to litigate outside Puerto Rico.

Two members of our practice team, **Richard Graffam-Rodríguez** and **Myrgia M. Palacios-Cabrera** represented Kmart in this case.

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