

A yellow triangle pointing downwards, located to the left of the 'BLOGS' header.

## BLOGS

State Franchise and Dealer Laws

# Sale of Upgraded Equipment Construed As Grant of a Franchise Under Michigan Franchise Investment Law

Following a bench trial, a Michigan federal court granted rescission of a contract relating to a vehicle deodorizing and sanitation business on the grounds that the business met the definition of a “franchise” under the Michigan Franchise Investment Law (MFIL). *Lofgren v. AirTrona Canada*, 2016 WL 25977 (E.D. Mich. Jan. 4, 2016). Lofgren had originally purchased equipment for the business from non-party AirTrona Green Technologies in 2009 and subsequently purchased upgraded equipment from AirTrona Canada in 2011. While the parties did not sign a formal, written agreement regarding their relationship, the invoice from the 2011 transaction expressly provided that for \$35,000, Lofgren would receive “1 Franchise Michigan Location.” The business was ultimately unsuccessful, and Lofgren filed suit seeking, among other things, damages and rescission for violations of the MFIL.

The court held that Lofgren’s business satisfied all of the elements of a franchise under the MFIL and concluded that AirTrona Canada had violated the statute by failing to provide a disclosure statement at the time of the 2011 sale. The court first determined that the 2011 upgrade was a “grant” of a franchise under the statute, both because the MFIL applies to “substitution of a modified or amended franchise agreement” and because the upgrade was Lofgren’s first transaction with AirTrona Canada. The court next found that Lofgren had paid a “franchise fee” within the meaning of the statute because the amount he paid exceeded the bona fide wholesale price of the equipment he received. Finally, the court found that AirTrona Canada had granted Lofgren the right to operate under a marketing plan or system when it promised him training and promotional materials, prescribed or suggested pricing, and monitored his sales. Although Lofgren had failed to demonstrate any causal relationship between his alleged harm and AirTrona Canada’s failure to provide a disclosure statement, the court determined that causation was not a necessary element of Lofgren’s claim under the MFIL and granted rescission with respect to the 2011 sale.

## Related People

### **Maisa Frank**

Partner

Washington, D.C.

202.295.2209

[maisa.frank@lathropgpm.com](mailto:maisa.frank@lathropgpm.com)