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BLOGS

Terminations

California Appeals Court Affirms Summary Judgment for Franchisor in Nonpayment Case

A California appellate court upheld a trial court's grant of summary judgment dismissing a former franchisee's action for wrongful termination against franchisor International House of Pancakes. In doing so, the appellate court found that IHOP was within its rights to terminate the franchisee for failure to pay fees and produce records. The case is *Safaei v. IHOP Corp.*, No. E046996, 2010 Cal. App. Unpub. LEXIS 7700 (Cal. Ct. App. 4th Dist. Sept. 28, 2010).

IHOP terminated the franchise agreement after having sent 10 separate notices to cure for failure to pay fees between 1996 and 2003. In May 2003, IHOP filed a complaint against the franchisee for failure to pay fees, and the parties entered into a stipulated judgment that was stayed as long as the franchisee timely paid a set amount of the total owed per week and otherwise kept current and in compliance with his franchise agreement and lease. In 2005, after further problems, the franchisee stopped all checks to IHOP and refused to pay fees, so IHOP terminated the franchise agreement. The franchisee sued for breach of contract, breach of the covenant of good faith and fair dealing, unjust enrichment, and unfair business practices, among other claims. The trial court granted IHOP's motion for summary judgment on all of the franchisee's claims, and the appellate court affirmed. It noted that IHOP was within its rights to terminate the franchise agreement for nonpayment and that the franchisee was not permitted to stop performing its contractual obligations while continuing to enjoy the benefits of the contract. The court also found that IHOP had not violated the covenant of good faith and fair dealing.