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BLOGS
Arbitration

California Appeals Court Reinstates Stay of Litigation in Favor of Arbitration in Colorado

Last week, a state appellate court in California issued what appears to be an important ruling upholding a franchisor's right to arbitrate in another state against a California franchisee. *MKJA, Inc. v. 123 Fit Franchising, LLC*, 2011 Ca. App. LEXIS 6 (Cal. App. 4th Dist., Div. 1 Jan. 4, 2011). This appeal was from a California state court's order that had lifted a stay of the franchisee's California litigation. The trial court had found that the franchisee could not afford to arbitrate in Colorado, thus the stay previously issued under California Code Civ. Pro. §1281.4 had been lifted.

In what it described as a case of first impression, the appellate court interpreted the California statute and concluded that a party's inability to afford to arbitrate is not a ground on which a trial court can lift a stay. The court of appeals added that the statute is designed to uphold the right to arbitrate and to preserve the legal status quo while an arbitration is pending. Any challenges based on unconscionability or otherwise will need to be presented to the arbitrator, the court held, as will the merits of the franchisee's claims (*i.e.*, fraudulent inducement and lack of support) arising from their franchise purchase and relationship.