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BLOGS

Terminations

California Court Holds That A Franchisor's Immediate Termination for Sale of Unapproved Products Was Not Unlawful Under the California Franchise Relations Act

In *Baskin-Robbins Franchising LLC v. Mihranian*, No. 2:08-cv-07022 (C.D. Cal. Jan. 23, 2009), a California federal district court last month denied a motion by franchisees to dismiss their franchisor's complaint and held that Baskin-Robbins' immediate termination of the franchise did not violate the California Franchise Relations Act ("CFRA"). Gray Plant Mooty represented the franchisor in this case. Baskin-Robbins had immediately terminated after finding the franchisees were using and selling non-fat frozen yogurt at their ice cream shop, a product specifically prohibited for sale by the franchisor. At issue were Sections 20020 and 20021 of the CFRA and whether Baskin-Robbins needed to provide a cure period. Section 20020 of the CFRA prohibits a franchisor from terminating a franchise without good cause and without first providing a reasonable opportunity to cure. Section 20021, however, provides for a number of circumstances in which a franchisor may terminate immediately.

The franchisees contended that Baskin-Robbins was required to provide an opportunity to cure under Section 20020. Baskin-Robbins argued, in turn, that the sale of unapproved products is harmful to a franchisor's goodwill and reputation. Such conduct, Baskin-Robbins argued, fulfills the statutory description of "conduct which reflects materially and unfavorably upon the operation and reputation of the franchise business and system" under the exceptions found in Section 20021(d) of the CFRA. The court agreed with Baskin-Robbins and held that the sale of unapproved products reflects negatively upon the franchisor's name and business reputation. The court denied the franchisees' motion to dismiss the franchisor's case.