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Class Actions

California Federal Court Denies Motion to Dismiss Claim Alleging *Alter Ego* Liability

A California federal court recently denied a motion to dismiss a class action complaint alleging *alter ego* liability of a franchisor's parent corporation. *Laguna v. Coverall North America, inc.*, 2009 WL 5125606 (S.D. Cal., Dec. 18, 2009). In *Laguna*, the complaint alleged that Coverall improperly sold janitorial franchises knowing that the franchisees lacked sufficient business to satisfy their obligations under the franchise agreements and that it misrepresented the guaranteed amount of monthly income from the franchises. Another key allegation was that the class members were wrongfully classified as independent contractors to avoid paying minimum wage, overtime compensation, rest and meal periods, other wage protections, and eligibility for unemployment and worker's compensation. In addition to Coverall, the complaint named Allied Capital Corp., Coverall's parent, as a defendant under a theory of *alter ego* liability. Allied moved to dismiss, invoking recent Supreme Court *Iqbal* and *Twombly* holdings that to state a viable claim, a complaint must allege facts that "plausibly" suggest that the plaintiff is entitled to relief, not just facts showing that misconduct was "possible." The court found that the complaint alleged that Allied was the sole shareholder in Coverall, regularly removed cash and other assets from Coverall to minimize the ability of creditors to attach funds, did not respect normal corporate formalities, failed to contribute capital or issue stock, and failed to provide adequate capital and operating funds. The court concluded that these allegations raised the plaintiffs' right to relief "beyond a mere speculative level."