

**BLOGS**

Americans with Disabilities Act

California Federal Court Grants Franchisor’s Motion to Dismiss Non-Dairy Alternative Surcharge Class Action Suit

A federal court in California recently granted a franchisor’s motion to dismiss a class action suit alleging discrimination in violation of the Americans with Disabilities Act (ADA). *Garland v. Dunkin’ Donuts, LLC*, 2024 WL 2808653 (N.D. Cal. May 31, 2024).

A federal court in California recently granted a franchisor’s motion to dismiss a class action suit alleging discrimination in violation of the Americans with Disabilities Act (ADA). *Garland v. Dunkin’ Donuts, LLC*, 2024 WL 2808653 (N.D. Cal. May 31, 2024). Chelsea Garland, on behalf of ten plaintiffs with milk allergies and/or lactose intolerance, filed a class action lawsuit alleging Dunkin’ violated the ADA and various states’ discrimination laws by charging an additional fee for non-dairy alternatives in their products. Garland claimed Dunkin’s creation of a separate, higher-priced menu aimed at customers with milk allergies or lactose intolerance amounted to discrimination because (1) there was no material price difference between dairy milk and non-dairy alternatives, and (2) Dunkin’s use of non-dairy alternatives did not require additional work when preparing drinks. Dunkin’ moved to dismiss Garland’s complaint, asserting that the court lacked personal jurisdiction over Dunkin’ and that Garland failed to state a claim on which relief could be granted.

The court granted Dunkin’s motion to dismiss but gave Garland leave to amend the complaint. The court first found that it lacked personal jurisdiction over Dunkin’ because Garland failed to demonstrate how Dunkin’—who argued it does not operate any corporate-owned locations in California and does not set pricing for franchisees’ operating in California—purposefully directed its activities toward the state or purposefully benefitted from conducting activities in the state. In granting leave to amend, the court allowed Garland to conduct jurisdictional discovery to determine the ownership and operation of Dunkin’ franchises located in California, and whether Dunkin’ required franchisees to impose a surcharge for non-dairy alternatives. The court also found that Garland failed to state a claim on which relief could be granted because Garland did not sufficiently allege they were disabled within the meaning of the ADA, which requires a showing that the alleged disability substantially limits a major life activity. The court reasoned that, while a milk allergy or lactose intolerance could qualify as a disability under the ADA, the disability analysis is an individualized inquiry, but neither Garland nor any of the other plaintiffs had plausibly alleged that their allergy or intolerance substantially limited any major life activity.

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