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BLOGS

Fraud/Misrepresentation

Connecticut Federal Court Assesses Application of the Economic Loss Doctrine to Misrepresentation Claims

The United States District Court for the District of Connecticut recently considered whether the economic loss doctrine barred allegations that a franchisor's purported misrepresentations induced a group of franchisees to enter into their franchise agreements. *Family Wireless #1, LLC v. Automotive Techs. Inc.*, 2016 WL 183475 (D. Conn. Jan. 14, 2016). Nearly 40 franchisees brought suit against Automotive Technologies, a master franchisee of Verizon Wireless, for breach of contract, fraud, common law negligent and innocent misrepresentation, and violations of state and consumer protection laws, based on allegations that the company had made misrepresentations concerning the royalty structure of its franchise program. ATI moved to dismiss the franchisees' negligent and innocent misrepresentation claims on the grounds that they were barred by the economic loss doctrine.

The court applied the law of the state where each individual franchised business was located and held that the economic loss doctrine barred the misrepresentation claims of some, but not all of the franchisees. Specifically, the court dismissed misrepresentation claims by franchisees that had businesses located in Pennsylvania and Michigan, holding that the law in those states barred tort claims relating to the performance of the underlying agreement. On the other hand, the court held that the economic loss doctrine under New York, Ohio, and Virginia law did not bar the misrepresentation claims because in those states the doctrine does not bar tort claims that concern a duty independent of the underlying contract (here, a duty to abide by disclosure requirements). The court also dismissed certain of the franchisees' misrepresentation and related statutory claims without prejudice for failure to plead the claims with sufficient particularity.

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