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BLOGS

Arbitration

Consolidation of Individual Arbitrations Must be Determined by Arbitrator

A federal court in California has denied franchisees' motion for an order to consolidate their claims into a single arbitration. *Meadows v. Dickey's Barbecue Rests., Inc.*, 2016 WL 7386138 (N.D. Cal. Dec. 21, 2016). This case arose from a dispute regarding whether franchisor Dickey's Barbecue Restaurants made false and misleading representations to the plaintiffs, all of whom are owners and former owners of Dickey's franchises in California. The court had previously determined that the franchisees' claims in this matter must be submitted to arbitration. Subsequent to that determination, the franchisees filed a group arbitration demand with the AAA. In response, the AAA informed the plaintiffs that they must instead file individual arbitration demands and that consolidation could only be requested from the appointed arbitrator after satisfying all initial filing requirements. In response, the franchisees sought a court order to consolidate their individual arbitrations, noting that California law permits consolidation into a single arbitration and that the AAA rules do not provide a mechanism for consolidation.

The court denied the franchisees' motion, holding that once the parties are obligated to submit a dispute to arbitration, procedural questions arising out of the dispute must be decided by the arbitrator. The court further held that the availability of class arbitration is considered a procedural question to be decided by the arbitrator, noting that California courts, the Ninth Circuit, and other federal appellate courts have reached the same conclusion. As a result, the court stated that each plaintiff must first individually file its claims with the AAA, and the plaintiffs may then subsequently request consolidation in accordance with AAA rules.

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