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BLOGS

Class Actions

Court Certifies Class Action Against Franchisor

In *De Giovanni v. Jani-King Int'l, Inc.*, 2009 WL 2993798 (D. Mass. Sept. 21, 2009), the court considered plaintiffs' motion to certify a class composed of Jani-King franchisees operating in Massachusetts. Plaintiffs brought two claims against Jani-King. First, the plaintiffs claimed that Jani-King had engaged in various unfair business practices, including breach of contract, misrepresentation, unjust enrichment, and violation of Massachusetts' unfair and deceptive trade practices law. Second, the plaintiffs claimed that Jani-King had violated Massachusetts' wage and employment laws by classifying its franchisees as independent contractors rather than employees.

The court denied the plaintiffs' motion to certify a class as to their first claim, but granted the motion as to the second. With respect to the unfair business practices claim, the court found that it presented "intractable individualized evidentiary and legal issues" that prohibited consideration of the claim on a class-wide basis. The court did find that claims brought under the unfair and deceptive trade practices law and based on the fees charged under the standard Jani-King franchise agreement were the type of claims that could be appropriately resolved through a class action. It held, however, that the two identified class representatives had not shown that they were typical of the franchisees affected by those provisions, as they had not demonstrated that they had personally been affected by application of those provisions of the franchise agreement that they challenged. The court thus denied without prejudice the plaintiffs' motion to certify a class on those claims, granting the plaintiffs leave to amend their complaint to identify new class representatives.