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## BLOGS

Area Representatives

# Court Dismisses Claims That a Franchisor's Sales Agent Interfered With Area Development Agreement

In *Ellering v. Sellstate Realty Sys. Network, Inc.*, 2010 U.S. Dist. LEXIS 5015 (D. Minn. Jan. 19, 2011), a Minnesota federal court dismissed a claim by an area representative (the Ellerings) against the franchisor's sales agent, Krien, finding that Krien did not tortiously interfere with an area representative agreement between the franchisor and the Ellerings that gave the Ellerings the exclusive right to represent the franchisor in soliciting prospective unit franchisees in Minnesota. After Krien allegedly solicited potential unit franchisees in Minnesota, the Ellerings brought suit against the franchisor and Krien asserting, among other claims, that Krien tortiously interfered with the exclusive right to offer franchises in Minnesota. The complaint alleged that Krien acted on his own accord outside the scope of his duties in tortiously interfering with the Ellerings' contract. The court granted dismissal, finding that the Ellerings could not show that the franchisor had breached the area agreement, a prerequisite to the tortious interference claim. The allegations that Krien acted alone established that the franchisor had not breached the contract with the Ellerings. Had the Ellerings alleged that Krien was acting within the scope of his duties, that also would not constitute tortious interference since it is well settled in Minnesota that a party cannot interfere with its own contract. Regardless of whether Krien was acting within or outside the scope of his duties, the court found, the Ellerings could not show tortious interference.