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BLOGS

Unjust Enrichment

Court Grants Franchisor's Motion for Summary Judgment on Unjust Enrichment, Conversion, and Conspiracy Claims

In *7-Eleven, Inc. v. George*, 2014 U.S. Dist. LEXIS 124270 (M.D. Fla. Sept. 4, 2014), a federal court granted 7-Eleven's motion for summary judgment on multiple claims to recover nearly \$5 million against the owners of a franchise. The defendants were a married couple, Jane George and Anthony Bailey, and several LLCs controlled by one or both of them. In 2007, George entered into a franchise agreement with 7-Eleven for the operation of a convenience store, which was later assigned to SGG, an LLC she owned and operated. The franchise agreement required the establishment of an open account, to which 7-Eleven would credit any amounts it owed to SGG, and debit the account for amounts SGG owed to 7-Eleven. Over several months, 7-Eleven mistakenly deposited the amount of the store's credit card transactions into the account. When it realized that SGG had been paid twice for such transactions, 7-Eleven attempted to reverse the over \$4.9 million that SGG had been overpaid. By then, however, there were insufficient funds in the account. The defendants refused to respond to 7-Eleven's attempts to recover the funds, and an investigation revealed that the money had been transferred out of the account and used by George and Bailey for personal purchases.

The State of Florida charged George and Bailey with grand theft, money laundering, and structuring transactions to evade reporting or registration requirements. George and Bailey pleaded no contest. 7-Eleven sought summary judgment on the basis that the criminal convictions established 7-Eleven's civil claims for unjust enrichment, conversion, and conspiracy. The court agreed, noting that the elements of unjust enrichment and conversion are subsumed by the elements of grand theft. Further, 7-Eleven successfully demonstrated that it mistakenly transferred funds to SGG's account, that Bailey and George exercised dominion over those funds, and that they refused to return the money, which established unjust enrichment and conversion. The court also agreed that George and Bailey acted in concert to retain and conceal the money in their account, thereby supporting 7-Eleven's conspiracy claim. Because restitution of the amount mistakenly deposited had already been granted in the related criminal case, the court ordered an award of prejudgment interest on the principal amount owed.

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