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## BLOGS

State Franchise and Dealer Laws

# Court Grants Motion to Dismiss Putative Class Action Lawsuit Under California's Unfair Practices Act

In *Arena Restaurant & Lounge LLC v. Southern Glazer's Wine & Spirits, LLC*, 2018 WL 4334631 (N.D. Cal. Sept. 10, 2018), a federal court in Northern California granted Southern Glazer's motion to dismiss a putative class action lawsuit brought by plaintiffs who purchased liquor from Southern Glazer, an international wine and spirits distributor. The plaintiffs alleged that Southern Glazer engaged in various unlawful and unfair business practices, including violations of California's Unfair Practices Act consisting of (1) below-cost sales, (2) loss-leader sales, (3) secret rebates, and (4) unlawful threats and intimidation. In response, Southern Glazer moved to dismiss the complaint for failing to plead an adequate factual basis for the claims. The court had previously given the plaintiffs leave to amend the complaint three times.

Southern Glazer succeeded on its motion to dismiss all of the plaintiffs' claims. With regard to the Unfair Practices Act claims, the court found the plaintiffs' allegations to be conclusory and lacking the required detailed factual allegations to support a viable claim. The plaintiffs failed to identify any specific occurrences of below-cost sales, loss-leader sales, or secret rebates. The court acknowledged that the plaintiffs had pled a particular threat made by Southern Glazer but ultimately found that the allegation lacked sufficient specificity because the plaintiffs did not assert that the threat was directed at one of them or that they purchased the product as a result of the threat. Because the previous defects in the complaint were not cured, the court dismissed the claims with prejudice.

## Related People

### Maisa Frank

Partner

Washington, D.C.

202.295.2209

[maisa.frank@lathropgpm.com](mailto:maisa.frank@lathropgpm.com)