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BLOGS

Terminations

Court Issues Preliminary Injunction Against Franchisees Who Failed to Follow Promotion

A United States District Court in Colorado last week issued a preliminary injunction against Steak 'n Shake franchisees who were terminated for failing to honor the system's mandatory promotional programs. *Steak 'n Shake Enters., Inc. v. Globex Co.*, 2013 U.S. LEXIS 125330 (D. Colo. Sept. 3, 2013). Specifically, the franchisees refused to comply with the chain's "\$4 meal" menu, and a codefendant had failed to open stores required under an area development agreement. The injunction order prohibits the defendants from operating certain terminated restaurants and using the Steak 'n Shake trademarks.

Despite ordering deidentification of the restaurants, the court did find that the franchisor was required to show that its termination was "proper" before the trademark injunction would be granted. The terminations were proper, the court held, because the former franchisees knowingly refused to adhere to the system's maximum prices for specified menu items. That violation of the franchise agreement, along with the area developer's failure to open the requisite number of stores, provided sufficient "likelihood of success on the merits" to support the preliminary injunction on the breach of contract and trademark infringement claims.

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