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BLOGS

Class Actions

Court Permits Class Action to Proceed Against Franchisor

In *Vallabhapurapu v. Burger King Corp.*, 2011 U.S. Dist. LEXIS 48804 (N.D. Cal. May 6, 2011), a California federal district court denied a motion to dismiss brought based on standing and the failure to join necessary parties. The case is part of a series of attempted class action lawsuits against Burger King as a franchisor of 96 restaurants leased to franchisees in the state of California. The complaint alleges that the restaurants are inaccessible to customers in wheelchairs, in violation of the Americans with Disabilities Act, the California Civil Rights Act, and the California Disabled Persons Act. The complaint further alleges common characteristics among the franchised restaurants, and that Burger King, as franchisor, exercises control over the development, design, remodel, alteration, maintenance, and operation of the restaurants.

The court reiterated its decisions on the same motion in an identical earlier lawsuit between the parties that was settled and dismissed, *Castaneda v. Burger King Corp.* Burger King's argument that the named plaintiffs lacked standing to file on behalf of restaurants that they had never visited was quickly dismissed as a maneuver to defeat class certification. Burger King also argued that the plaintiffs should be required to join the franchisees of the restaurants at issue as additional defendants in the litigation because the franchise agreements required the franchisees to operate and maintain the facilities in question, and the franchisees were required to indemnify Burger King for any accessibility violations that occurred. Although the plaintiffs did not disagree that the franchise agreement contained these requirements, the court nevertheless reiterated its finding from *Castaneda* that the franchisees were not necessary parties. The court held that Burger King, pursuant to its rights under the franchise agreements, exercised sufficient and substantial control over the premises and the franchisees. Consequently, the court allowed the case to proceed without requiring the plaintiffs to add the franchisees as defendants.