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BLOGS

Terminations

Court Refuses to Dismiss Franchisee's Claims, Including Claim for Breach of Fiduciary Duty

In *United Consumers Club, Inc. v. Prime Time Mktg. Mgmt., Inc.*, 2010 U.S. Dist. LEXIS 87236 (N.D. Ind. Aug. 23, 2010), a federal district court late last month denied a franchisor's motion to dismiss claims for, among other things, wrongful termination and breach of fiduciary duty. Prime Time, a franchisee of an organization known as DirectBuy, had sued the franchisor after its franchise was terminated. Prime Time sold memberships to its buying club, with DirectBuy receiving royalty fees. In denying the motion to dismiss, the court found that the majority of Prime Time's claims properly stated a claim for relief, and thus were not subject to dismissal at this early stage of the litigation.

The court found, first, that fact issues surrounded Prime Time's claim for wrongful termination of its franchise agreement. The court further permitted Prime Time to pursue its claims for conversion, tortious interference with contract, unjust enrichment, and breach of the implied covenant of good faith and fair dealing. Most significantly, however, the court also found, without much explanation, that Prime Time had properly stated a claim for breach of fiduciary duty. Prime Time alleged that a fiduciary relationship formed when DirectBuy exerted control and influence over Prime Time's customers. The court noted that a franchise relationship does not typically create a fiduciary duty, but found that it was premature to determine whether such a relationship existed under the facts of this case. Accordingly, the court denied DirectBuy's motion to dismiss this claim as well. We will monitor any further decisions in this case, given the potential impact on franchising of the issue of whether a fiduciary duty exists.