

A solid yellow right-angled triangle pointing towards the top-left corner.

BLOGS

Post-Termination Injunctions

Court Rules Against Former Franchisees and Association on Challenge to Franchisor's Expansion Plans in Detroit

What started as a routine post-termination injunction case brought by a franchisor turned into a more fundamental dispute when a franchisor terminated the franchise agreements of two of its franchisees for non-payment of royalties and other fees in *Dunkin' Donuts Franchised Restaurants LLC v. Shrijee Investment, Inc.*, 2008 WL 5384077 (E.D. Mich. Dec. 23, 2008). Dunkin' Donuts, represented by Gray Plant Mooty, began the case by suing the franchisees for their continued use of Dunkin' trademarks after termination. The franchisees, in turn, sued Dunkin' for allegedly breaching its duty of good faith and fair dealing (claiming Dunkin's alleged expansion plan for Detroit was designed to drive them out of business) and tortiously interfering with their attempts to sell their franchises. The franchisees argued that alleged prior breaches nullified the terminations, but the court rejected that argument and ruled that Dunkin's alleged breach is immaterial to the court's evaluation, thus the franchisor's motion for a post-termination injunction was granted.

Raising what may be a more significant issue for franchisors, Dunkin' moved to dismiss the claims of the Detroit Dunkin' Donuts Franchisee Association (DDFA) for lack of associational standing. In order to sue on behalf of its members, the DDFA needed to establish that its members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization's purpose, and neither the claim asserted nor the relief requested requires the individual participation of the individual members. Like the individual franchisee parties, the DDFA alleged that Dunkin's alleged expansion plan for Detroit was designed to remove small networks of shops in favor of large, multi-unit operators. The court concluded that the breach claims made by the DDFA could be evaluated only with the participation of each individual franchisee, and therefore it dismissed the DDFA from the suit.