

BLOGS

Choice of Forum/Venue

Court Transfers Franchisee's Second-Filed Action

A federal district court in Nevada transferred a franchisee's lawsuit against a franchisor to another district court in which the franchisor had filed suit against the franchisee just hours earlier. *Khutob v. L.A. Ins. Agency Franchising, LLC*, 2018 WL 4286171 (D. Nev. Sept. 8, 2018). When a dispute arose between the parties and settlement negotiations broke down, the franchisor, L.A. Insurance Agency (LAIA), filed suit against the franchisee, Khutob, in the U.S. District Court for the Eastern District of Michigan. Later that same day, Khutob filed a parallel lawsuit against LAIA in the District of Nevada.

LAIA moved to dismiss, stay, or transfer the Nevada case based upon the first-to-file rule, pursuant to which the court has the discretion to rule in the interest of efficiency and judicial economy. Khutob argued that the first-to-file rule should not apply because the cases were dissimilar and because LAIA's complaint was an anticipatory suit aimed at forum shopping. The court disagreed, concluding that the lawsuits involved substantially similar issues because the enforceability of the franchise agreements was central to both cases. The court also rejected Khutob's claim that LAIA had engaged in forum shopping, noting that LAIA had signaled its intention to file suit if its settlement offer was not accepted. In exercising its discretion to transfer the case to Michigan, the court declined to consider the parties' arguments about convenience or the enforceability of a forum selection clause that also selected Michigan as the forum for resolution of disputes, holding that those issues were more properly considered by the court in the first-filed action.

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