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BLOGS

State Franchise and Dealer Laws

Federal Court Concludes that Release Does Not Violate the New Jersey Franchise Practices Act

A federal court in New Jersey held that the release contained in an assignment agreement did not violate the New Jersey Franchise Practices Act (NJFPA). *Scism v. Golden Corral Corp.*, 2019 WL 6522738 (D.N.J. Dec. 4, 2019). The NJFPA prohibits a franchisor from requiring that a franchisee assent to a release that would relieve any person of liability imposed by the Act at the time the franchisee enters into a franchise arrangement. The Scisms entered into a franchise agreement dated May 24, 2007. The franchise agreement was later assigned to GC of Vineland, LLC, in which the Scisms are members, by way of an assignment agreement that contained a release of Golden Corral from any and all claims, debts, liabilities, demands, obligations, costs, expenses, actions, and causes of action arising out of the franchise agreement and the assignment agreement. The Scisms argued that since the release was contained in a document where a franchisee was entering into a franchise arrangement, the release violated the NJFPA.

The court disagreed with the Scisms for two reasons. First, it was not clear that the NJFPA applied to the assignment agreement, or that Golden Corral “required” the franchisee to assent to the release by merely consenting to the assignment agreement. Second, and most compelling, the assignment agreement did not require that the new franchisee, GC of Vineland, assent to the release. The release only applied to the Scisms. Thus, the release did not violate the NJFPA as it did not require the franchisee to assent to a release that would relieve Golden Corral of liability. The court further noted that where New Jersey law does not bar the release of liability the release is enforceable, and thus it dismissed the Scisms’ claims relating to events that occurred prior to the execution of the assignment agreement. The court allowed claims arising from events that occurred after the assignment and release were signed to proceed, as those were not subject to the release.

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