

A yellow triangle pointing downwards, located to the left of the 'BLOGS' header.

## BLOGS

State Franchise and Dealer Laws

# Federal Court Denies Former Franchisees' Motion for Summary Judgment on Their Claim for Violation of Michigan Statute

In *Tankersley, et al. v. Lynch, et al.*, 2012 U.S. Dist. LEXIS 27762 (E.D. Mich. Mar. 2, 2012), a federal court in Michigan denied a motion for summary judgment brought by two former franchisees claiming that the franchisor's officers were liable for an arbitration award obtained against the franchisor for violations of the Michigan Franchise Investment Law ("MFIL"). The plaintiffs owned and operated a Collision of Wheels ("CoW") mobile auto body repair franchise. The franchise relationship soured, and the plaintiffs brought an arbitration demand claiming that CoW violated the MFIL. Ultimately, the arbitrator awarded damages totaling over \$550,000. The plaintiffs then filed suit against CoW's former executive officers in California state court alleging that, pursuant to the MFIL, they were jointly and severally liable for the arbitration award obtained against CoW. That case was removed to the Eastern District of Michigan.

In denying the former franchisees' motion for summary judgment, the court found that Section 32 of the MFIL creates a rebuttable presumption of joint and several liability for officers and others who control a franchisor found liable under the MFIL. The court also noted that an officer is not liable for the franchisor's violation if he had "no knowledge of or reasonable grounds to believe in the existence of the facts" that created the franchisor's liability. The court found that while these defendants were subject to liability under Section 32, a question of material fact existed regarding whether they knew or had reason to know of the facts that gave rise to the MFIL violations.