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BLOGS

Fraud/Misrepresentation

Federal Court Denies Franchisor's Motion to Dismiss Fraudulent Inducement Claim Despite Franchisee's Release

The United States District Court for the District of Arizona rejected an argument that a general release clause barred a franchisee's counterclaims for fraudulent inducement. *Zounds Hearing Franchising LLC v. Moser*, 2016 WL 6476291 (D. Ariz. Nov. 2, 2016). Moser, a franchisee of Zounds, had purchased an existing franchise through an assignment agreement. The agreement contained broad release language in which the parties waived "known and unknown" claims. The relationship between Moser and Zounds eventually soured, and Zounds sued Moser, who in turn, brought counterclaims based on fraudulent inducement and statutory theories. Zounds moved to dismiss the counterclaims, arguing that a fraudulent inducement claim was barred by the release.

The court granted in part the franchisor's motion as to one of the franchisee's statutory claims, but allowed the fraudulent inducement claims to survive. The court found that the broad language of the release did demonstrate the parties' intent to release unknown claims. However, because Moser alleged that she was fraudulently induced to enter into the agreement that contained the release, the court had to consider whether the release was valid. The court determined that, to find that the release applied to the fraudulent misrepresentation claims, the language of the release would have to demonstrate the express intent to cover such claims. In this case, the court did not find the release broad enough to cover the fraudulent inducement counterclaims, and declined to dismiss them. The court also rejected Zounds' contention that the fraudulent inducement claims were barred by the contract's integration clause, since at least two of the alleged misrepresentations were contained in Zounds' FDDs.

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