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# Federal Court Denies Franchisor's Motions to Overturn Jury Verdict on Franchisees' Counterclaim

The United States District Court for the District of Arizona recently denied a post-trial motion filed by Best Western International Inc. for a new trial and for judgment as a matter of law following a set of unfavorable jury verdicts in *Best Western International, Inc. v. Patel, et al.*, 2008 WL 205286 (D. Ariz. Jan. 23, 2008). The hotel at issue had been operated for over 30 years under the Best Western trademarks but was terminated approximately a year after the current franchisees had purchased it. Best Western thereafter brought suit against the franchisees for failing to pay for goods and services provided by the franchisor and for using its trademarks post-termination. The franchisees raised affirmative defenses and a counterclaim, asserting that they were excused from performing under the franchise agreement because the franchisor breached its terms and/or breached the duty of good faith and fair dealing.

At trial, the jury returned seemingly inconsistent verdicts. It awarded the franchisor nearly $60,000 on its claims. However, it also held that Best Western was liable for the franchisees' counterclaim and awarded them $445,000. The franchisor argued in its motion for a new trial that the jury had disregarded its instructions because it had failed to use the calculation for trademark infringement set forth in the franchise agreement and ignored the limitations of damages clause in the franchise agreement with respect to the counterclaim. In addition, Best Western pointed out that the since the jury had rejected the franchisees' affirmative defenses in finding liability on the franchisor's affirmative claims, it should not have found Best Western liable on the franchisees' counterclaims because they were based on the same legal theories. The court, however, found that the jury's conclusions were supported by the evidence and refused to "speculate as to how the verdict was reached."

Similarly, the court rejected the franchisor's assertion that the jury had rendered inconsistent verdicts. There was, as the court noted, evidence "based strictly on the language of the franchise agreement" that supported the jury's conclusion that the franchisees had breached the contract. Nonetheless, there was also evidence presented to the jury that the franchise agreements had been terminated "in bad faith." Thus, the court concluded the verdicts were "reconcilable." In addition, the court found that the franchise agreement's limitation on counterclaim damages did not apply because the good faith and fair dealing sounded in tort rather than contract. Finally, the court held that it was proper to allow one of the franchisees to testify about the dollar value of the hotel even though he was not qualified as an expert because "[a] property owner can testify about the value of his property if his testimony is well founded on personal knowledge."