

BLOGS

Fraud/Misrepresentation

Federal Court Dismisses Franchisee's Fraud and Misrepresentation Claims Because the Franchise Agreement Directly Contradicts Alleged Misrepresentations

In *BP West Coast Products LLC v. SKR, Inc.*, 2013 U.S. Dist. LEXIS 151764 (W.D. Wash. Oct. 22, 2013), a federal court in Washington dismissed a gas station franchisee's claims for fraud and negligent misrepresentation, and its claims under the Washington Franchise Investment Protection Act and Washington Gasoline Dealer Bill of Rights Act. The claims were based on BP's allegedly inaccurate statements regarding the estimated gross margins that the franchisee could earn on the sale of gasoline and other products.

In dismissing the claims, the Washington court noted that for both fraud and negligent misrepresentation, reliance is a critical element, and it must be justifiable and detrimental to the person relying on the information. The court found that the franchisee could not have reasonably or justifiably relied on BP's alleged misrepresentations because the franchise agreement clearly stated that BP provided no representations or warranties, express or implied, as to profit or income the franchisee might derive from the franchised business. The court further noted that the franchisee was not detrimentally harmed because subsequent projections that the franchisee created for lenders differed from BP's alleged misrepresentations and were based on estimates provided by third parties and the franchisee's independent research. Finally, the court noted that, in common law and statutory fraud claims, the statement must relate to a "representation of an existing fact." Because the estimated gross margins allegedly provided by BP related to future performance and did not constitute an "existing fact," the franchisee's fraud claims failed.

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