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BLOGS
Contracts

Federal Court Dismisses Rescission Claim Against Franchisor

A federal district court in Pennsylvania recently held that a franchisor was entitled to summary judgment on a franchisee's equitable rescission claim because the franchisee did not act promptly in bringing suit after discovering the franchisor's alleged misrepresentations. In *Al-Barqawi v. 7-Eleven, Inc.*, 2014 U.S. Dist. LEXIS 19601 (E.D. Pa. Feb. 18, 2014), the franchisee, Al-Barqawi, alleged that 7-Eleven representatives falsely represented to him before he signed his franchise agreement that the particular store he was purchasing did not have problems with crime. Al-Barqawi was robbed at gunpoint during his first week operating the store and learned that the store had been robbed on several prior occasions. Nevertheless, he continued to operate the store for two years until 7-Eleven terminated his franchise agreement. Al-Barqawi then brought suit and raised claims for breach of contract, misrepresentation, rescission, and promissory estoppel. 7-Eleven moved for partial summary judgment, arguing that (1) Al-Barqawi waived his right to equitable rescission by failing to pursue the claim within a reasonable amount of time, (2) Al-Barqawi's claims for intentional and negligent misrepresentation were barred by the applicable statute of limitations, and (3) the existence of the franchise agreement defeated the promissory estoppel claim as a matter of law.

In granting the motion, the court held that Al-Barqawi's rescission claim could not survive summary judgment because he continued to perform under the contract long after learning that 7-Eleven's alleged statements regarding the safety of his store may have been misleading or fraudulent. Applying Pennsylvania law, the court explained that when a nonbreaching party discovers facts that warrant rescission of his contract, he must act promptly to rescind the contract while the parties can still be restored to their precontract positions. The court determined that Al-Barqawi was on notice during his first week operating the store that 7-Eleven may have misrepresented the safety of the store and failed to disclose prior criminal activity on the premises, and his inexcusable delay in seeking to rescind the franchise agreement made it too difficult to return the parties to their original positions. Likewise, the court rejected Al-Barqawi's claim for misrepresentation because the statute of limitations had run and no tolling exception applied. The court also dismissed the promissory estoppel cause of action because Al-Barqawi did not oppose summary judgment for 7-Eleven on that claim.

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