BLOGS
Antitrust

Federal Court in Michigan Denies Franchisor's Motion to Dismiss Anti-Poaching Complaint

A court in the Eastern District of Michigan recently denied a franchisor's motion to dismiss a franchisee employee's anti-poaching complaint, finding that the employee had pled sufficient facts to show that the anti-poaching provision of the franchise agreement could be an unlawful restraint of trade. *Blanton v. Domino's Pizza Franchising LLC*, 2019 WL 2247731 (E.D. Mich. May 24, 2019). The plaintiff, Harley Blanton, was a former employee of a Florida Domino's franchisee who alleged that he quit his job after his hours were cut. He filed suit against franchisor Domino's Pizza Franchising LLC, as well as its supplier entity, parent company, and an associated investment entity, claiming that they had violated the Sherman Antitrust Act by orchestrating an anti-poaching agreement among Domino's franchisees. The provision barred Domino's franchisees from hiring current employees of other Domino's franchisees without the approval of the employee's current employer.

In denying the motion to dismiss, the court first ruled that Blanton had pled facts sufficient to establish Article III and antitrust standing. In so ruling, the court found sufficient Blanton's allegations that his wages had been suppressed as a result of the anti-poaching provision. Next, the court concluded that Blanton had sufficiently alleged that the anti-poaching provision constituted a horizontal restraint of trade. Although it noted that horizontal restraints ancillary to procompetitive agreements are typically judged under the fact-intensive rule of reason standard, the court declined to rule out the applicability of even the per se standard of analysis. The court concluded that Blanton had sufficiently alleged that Domino's orchestrated an anticompetitive conspiracy by including the anti-poaching provision in its form franchise agreements.

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