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BLOGS

Choice of Forum/Venue

Floating Forum Selection Clause Insufficient to Confer Personal Jurisdiction Over Franchisee Under Florida's Long-Arm Statute

A series of agreements between a franchisee operating in Buffalo, New York, and Dollar Rent-a-Car and Hertz included a floating forum selection clause. The clause provided that the franchisee consented to jurisdiction in the district court where the principal place of business of the franchisor is located. When the relationship between the parties soured, Dollar Rent-a-Car and Hertz filed an action in Florida against franchisee Westover Car Rental for breach of the license agreements and associated personal guarantees. *Dollar Rent a Car, Inc. v. Westover Car Rental, LLC*, 2017 WL 5495126 (M.D. Fla. Nov. 16, 2017). Westover moved to dismiss for lack of personal jurisdiction on the grounds that it did not conduct business in Florida, and that Florida's long-arm statute did not authorize jurisdiction over it in that forum.

The court granted the motion to dismiss, finding Westover had not contractually consented to the court's exercise of personal jurisdiction. Under Florida's long-arm statute, parties may consent to jurisdiction in that state by contract alone only if certain requirements are met. Specifically, to satisfy the statutory requirements for consent to personal jurisdiction, the contract must: (1) include a choice of law provision designating Florida law as the governing law; (2) include a provision whereby the nonresident agrees to submit to the jurisdiction of the courts of Florida; (3) involve consideration of at least \$250,000; (4) not violate the United States Constitution; and (5) either bear a substantial or reasonable relation to Florida or have at least one of the parties be a resident of Florida or incorporated under its laws.

While the licenses contained a forum selection clause in which the defendants consented to jurisdiction in the federal district of the franchisor's place of business, they also designated Oklahoma law as governing. Thus, the agreements did not satisfy the first requirement. On that basis alone, the court found no long-arm jurisdiction. In addition, the court found the floating forum selection clause did not satisfy the second element of the long-arm statute in that the clause did not expressly identify Florida by name as the choice of jurisdiction in the event of a dispute between the parties.

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