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BLOGS

Grant of Dealership

Franchise Agreement Does Not Provide Basis to Dismiss Breach of Contract and Misrepresentation Claims

In *Luther v. Kia Motors America, Inc.*, 2008 WL 2397331 (W.D. Pa. June 12, 2008), the court denied Kia's motion to dismiss a prospective franchisee's claims of breach of contract and negligent misrepresentation resulting from failed negotiations between the parties for the plaintiff to be awarded a Kia Motor dealership. Kia had argued that a written agreement between the parties precluded Luther from establishing the elements of either a breach of contract claim or a claim for negligent misrepresentation. The plaintiff's contract claim was based on an alleged oral contract in which the plaintiff was promised a Kia franchise. Kia argued that the plaintiff could not prove the existence either of an oral contract or justifiable reliance for a claim for negligent misrepresentation, because the putative written franchise agreement between the parties explicitly stated that "no act, other than the written execution of a Kia Dealer Sales and Service Agreement by an executive officer of Kia shall constitute approval of this application by Kia." Consequently, according to the defendant, any reliance by the plaintiff on oral representations that it had been awarded a Kia franchise was neither justifiable nor reasonable.

In rejecting Kia's defense at the motion to dismiss stage, the court noted that an extrinsic document, such as the written contract form, is generally not considered on a motion to dismiss unless the complaint refers to the document and it is central to the claims therein. The court held that the written franchise agreement was not central to the plaintiff's claims because the claims concerned the application process and an oral agreement allegedly made after the franchise agreement had been signed. Accordingly, the court refused to consider the franchise agreement in deciding the motion to dismiss. Because that agreement formed the sole basis for Kia's motion, the court denied the motion to dismiss.