

**BLOGS**

Standing

Franchisee Association Suit Against Franchisor Dismissed for Lack of Standing

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A franchisee association's claims against a franchisor, brought on behalf of the association's franchisee-members, were summarily dismissed because the court decided that the association "simply [was] not in as good a position" as the individual franchisees to present the subtleties of the claims. *APFA Inc. v. UATP Mgmt., LLC*, 2021 WL 1814695 (N.D. Tex. May 6, 2021). UATP is the franchisor of the Urban Air franchise system, which has nearly 200 locations across the United States. The Adventure Park Franchisee Association (APFA) represents more than 50 Urban Air franchisees. Between 2016 and 2020, UATP implemented various changes to the franchise system, including an increased royalty fee, removal of the development fund fee, and the addition of a membership program and new fees. APFA alleged that UATP unlawfully identified new designated vendors, received rebates from those vendors, and engaged in financing that was not properly disclosed in the FDD. The association brought suit in New Jersey federal court against UATP for alleged violation of Texas and New Jersey laws, breach of contract, and breach of good faith and fair dealing, and sought a declaratory judgment and injunctive relief. UATP successfully moved to have the litigation transferred to the Northern District of Texas because of a forum selection clause, and then brought a motion to dismiss all of APFA's claims on the grounds that APFA lacked standing to bring the lawsuit.

The court agreed and dismissed the association's claims. When considering whether an association has standing to bring suit on behalf of its members, the association must show that (1) the members have standing to sue in their own right, (2) the interests the association is seeking to protect are part of the association's mission, and (3) neither the claims asserted, nor the relief requested, requires the participation of the individual members. To satisfy the first prong, courts have held that an association only has to show that one member has standing, which APFA was easily able to satisfy. APFA also satisfied the second prong by showing that their organization's goal was to protect and preserve the rights of the Urban Air franchisees. To satisfy the third prong, the courts held that an association must demonstrate its "claims can be proven by evidence from representative injured members, without a fact intensive-individual inquiry." The court held that APFA was not in the best position to present the subtleties of its members' contract and tort claims and that APFA failed to show how it would

Related People

Maisa Frank

Partner
Washington, D.C.
202.295.2209
maisa.frank@lathropgpm.com

Richard C. Landon

Partner
Minneapolis
612.632.3429
richard.landon@lathropgpm.com

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argue its claims without its individual members' participation. Therefore, APFA did not have standing and the court dismissed its lawsuit.