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BLOGS

Preliminary Injunctions

Franchisee Denied Injunction to Block Software Upgrade

A federal district court in New York denied a franchisee's motion for a preliminary injunction that would have prevented its franchisor from installing a new software system in its stores. *JDS Grp Ltd. v. Metal Supermarkets Franchising Am., Inc.*, 2017 WL 2643667 (W.D.N.Y. June 20, 2017). The dispute arose when the franchisor, Metal Supermarkets Franchising America ("MSFA"), developed and began installing an upgraded software platform in its franchise system. The franchisee, JDS Group, brought suit against MSFA, arguing that the requirement to utilize the new software constituted a violation of the Washington Franchise Investment Protection Act ("FIPA"), which prohibits "unfair or deceptive" practices. JDS sought a preliminary injunction to prevent MSFA from installing the new software platform in its stores. In support of its motion, JDS alleged that the new system was unreliable and inefficient and submitted the declarations of six other MSFA franchisees, all of whom reported that they had encountered serious problems while using the system.

Noting that federal courts have repeatedly held that it is permissible for a franchisor to require use of its proprietary computer systems, and finding no evidence of bad faith on the part of MSFA, the court found it unlikely that JDS would be successful on the merits of its FIPA claim. The court further held that JDS had not shown that it was likely to suffer irreparable harm if the software were installed because the majority of MSFA stores had already upgraded to the new software, and on average, those stores had actually seen an increase in sales after the conversion. Accordingly, the court concluded that the "extraordinary remedy" of an injunction was not appropriate and denied JDS's request.

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