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BLOGS

Insurance

Franchisor's Claim for Insurance Coverage Dismissed Based on Contractual Exclusion

A federal court in Michigan granted summary judgment to an insurance carrier following its denial of liability coverage and refusal to defend a franchisor based on the policy's contractual liability exclusion. In *Certified Restoration Drycleaning Network, LLC v. Federal Ins. Co.*, 2013 U.S. Dist. LEXIS 54457 (E.D. Mich. Apr. 16, 2013), the franchisor (CRDN) sought defense coverage under its general liability insurance policy for an underlying lawsuit by a franchisee. The lawsuit arose after CRDN sold a franchise to a company named East Coast Garment Restoration and then unilaterally discontinued the franchise relationship eleven days later based on information it learned in a background check on East Coast's owner. East Coast sued CRDN for breach of contract and breach of the covenant of good faith and fair dealing. CRDN notified Federal Insurance Company of the lawsuit, but Federal denied coverage under an exclusion in the policy for any claim "based upon, arising from, or in consequence of" any actual or alleged liability under "any contract or agreement" (except to the extent that an insured would have been liable without the agreement). CRDN ultimately settled with East Coast after mandatory arbitration. CRDN then filed a lawsuit against Federal resulting in cross-motions for summary judgment on the meaning of the policy language.

CRDN argued that the contractual exclusion should not apply because the substance of East Coast's complaint alleged pre-sale misrepresentation. The court disagreed finding that the complaint detailed a story of the alleged execution and breach of the franchise agreement. The form and substance of the complaint all supported the conclusion that East Coast's claims against CRDN "arose out of" its alleged breach. Contrary to CRDN's position, the court determined that misrepresentation allegations only constituted a small part of the background story. The court granted Federal's motion for summary judgment and dismissed CRDN's claim.

Related People

Maisa Frank

Partner

Washington, D.C.

202.295.2209

maisa.frank@lathropgpm.com