



BLOGS
Renewals

Illinois Federal Court Partially Dismisses Counterclaims Arising out of Expired Area Developer Agreement

A federal court in Illinois has dismissed three of four counterclaims asserted against Liberty Tax by one of its former area developers and franchisees, David Rocci. *JTH Tax LLC v. Grabowski*, 2020 WL 6203355 (N.D. Ill. Oct. 22, 2020). Liberty first sued Rocci for allegedly continuing to operate competing businesses using Liberty’s trademarks and other property following the expiration of his area development agreement and the termination of his franchise. Rocci counterclaimed, arguing that Liberty breached the area development agreement because it failed to offer him a renewal after he provided notice of his intent to renew. He also claimed that Liberty breached the agreement by failing to provide a lawful franchise system; violated the Illinois Franchise Disclosure Act (IFDA) by failing to renew his area development agreement without giving him adequate notice and compensation for the value of his business; and violated the Massachusetts Consumer Protection Act by, among other things, failing to renew the area development agreement.

The court denied Liberty’s motion to dismiss Rocci’s contract claim based on nonrenewal because, on a motion to dismiss, it had to take as true his allegations — which were that he was not offered a renewal 5 | The Franchise Memorandum by Lathrop GPM despite giving written notice. The court would not consider Liberty’s arguments concerning facts outside the pleading as to why Rocci may not have been entitled to renew. However, the court dismissed Rocci’s claim that Liberty failed to provide and maintain a lawful franchise system because the contract provision that he cited in support of the claim imposed requirements on him, not Liberty. The court also held that Rocci could not state a claim under the IFDA because the Act’s renewal requirements concern the renewal of a franchise of a franchised business, not an area development agreement like Rocci’s. Lastly, the court determined that Rocci’s fourth counterclaim under the Massachusetts Consumer Protection Act was barred by the area development agreement’s choice-of-law provision designating Illinois law as the governing law.

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