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BLOGS

Terminations

License Agreement Is Not a Personal Services Contract

In the case of *Holiday Hospitality Franchising LLC v. CPTS Hotel Lessee LLC*, No. 653096/2016 (N.Y. Sup. Ct. May 7, 2018), the Supreme Court of New York granted Holiday Hospitality's motion to dismiss CPTS's claim that the license agreement between the parties was a personal services contract and, therefore, could be terminated without cause. CPTS had attempted to terminate the license agreement due to Holiday's alleged failure to properly invest in the growth and promotion of the Crowne Plaza brand. CPTS alleged, among other things, that Holiday breached the license agreement by failing to properly advertise the brand and update the reservation system, all of which negatively impacted occupancy rates and customer satisfaction. CPTS further contended that because the license agreement was a personal services contract, it was terminable at will. In response to the termination, Holiday argued that (1) CPTS did not provide personal services under the agreement; (2) CPTS had waived its right to assert that a personal services contract existed under the express language of the agreement, which was negotiated by sophisticated business entities; and (3) CPTS had waived its right to terminate the agreement.

In granting in part Holiday's motion to dismiss CPTS's claims, the court acknowledged that if a personal services relationship existed, CPTS's waiver of its right to terminate the license agreement would be unenforceable as a matter of public policy. The court held, however, that a personal services relationship did not exist because the parties specifically agreed that the contract was not one for personal services. Further, the services provided by CPTS were governed by the operations manual and did not require the unique expertise of CPTS. Thus, because the license agreement was not a personal services contract, the provision waiving CPTS's right to terminate the license agreement was not invalid.

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