

## BLOGS

Area Representatives

# Majority of Area Representatives' Claims Permitted to Proceed Against Franchisor and its Officers

Ruling on a motion to dismiss in a consolidated action, a federal district court in North Carolina held that several Charlie Graingers area representatives alleged sufficient facts to permit fraud and tort-based claims and other similar claims to proceed against franchisor Charlie Graingers and its individual officers. *Trident Atlanta, LLC v. Charlie Graingers Franchising, LLC*, 2019 WL 441187 (E.D. N.C. Feb. 4, 2019). The area representatives claimed that prior to signing their franchise agreements, Charlie Graingers' officers made multiple representations outside of the company's FDD regarding the amount of support Charlie Graingers provides to its franchisees, the officers' level of experience, and the success of Charlie Graingers franchised businesses. The area representatives signed a closing acknowledgment and general release of claims in connection with the franchise agreements. The area representatives subsequently filed suit against Charlie Graingers alleging multiple claims, including fraud, intentional misrepresentation, concealment, breach of fiduciary duty, RICO-based claims, and breach of contract.

The court held that the area representatives pleaded numerous and sufficient facts to overcome a motion to dismiss filed by the individual officer defendants with respect to the tort and fraud-based claims, including the claim that the defendants violated North Carolina's Unfair and Deceptive Trade Practices Act. The court rejected the officers' arguments that the claims were barred by the signed general release because the area representatives' claim that they were fraudulently induced into signing the franchise agreements also applied to the execution of the release. In addition, the court found that the release violated the Federal Trade Commission's Franchise Rule because it required the area representatives to waive reliance on representations in the FDD, and therefore should not be enforced. The court also permitted the breach of fiduciary duty claims to proceed, ruling that the area representatives alleged sufficient facts to demonstrate the existence of a relationship of trust and confidence rising to the level of a fiduciary duty, and the officers' breach thereof. The court did, however, dismiss the RICO claims.

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