

BLOGS

Injunctive Relief

Maryland Federal Court Awards Franchisor Permanent Injunction and Attorneys' Fees as Part of Default Judgment Against Holdover Franchisee

A federal court in Maryland recently granted a franchisor default judgment and awarded it a permanent injunction and attorneys' fees under the Lanham Act, against a holdover franchisee that failed to respond to a lawsuit. *ICENY USA, LLC v. M&M's LLC*, 2020 WL 1890511 (D. Md. Apr. 16, 2020). ICENY is the franchisor of Thai ice cream roll shops, and M&M was an ICENY franchisee in Yuma, Arizona. ICENY terminated the franchise agreement after M&M failed to pay various required fees. Following termination, M&M did not comply with its post-termination obligations, and ICENY filed suit in Maryland seeking an injunction enforcing the post-termination obligations and damages. Despite properly serving all defendants, M&M and its co-defendants did not respond to the complaint or any motions and continued to operate the formerly franchised business, even after the court ordered it to stop.

ICENY moved for a default judgment requesting, among other remedies, a permanent injunction and attorneys' fees. The court granted the default judgment, determining that M&M's breach of the franchise agreement's bar on post-termination use of ICENY's intellectual property, trademark infringement, and breach of the noncompete caused irreparable harm not fairly redressed by monetary damages, and that the balance of the hardships and public interest favored an injunction. The court also ordered M&M to pay ICENY's attorneys' fees and costs under the Lanham Act's fee-shifting provision, finding that M&M's conduct was so objectively unreasonable that it rendered the case "exceptional," as required to collect attorneys' fees under the Act.

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