

**BLOGS**

Fraud/Misrepresentation

Maryland Federal Court Grants Summary Judgment Dismissing Franchisee's Counterclaim for Negligent Misrepresentation

A federal court in Maryland has recently granted franchisor Kiddie Academy's motion for summary judgment, dismissing franchisee Wonder World Learning's counterclaim for negligent misrepresentations. *Kiddie Academy Domestic Franchising, LLC v. Wonder World Learning, LLC*, 2020 WL 4338891 (D. Md. July 27, 2020). Wonder World alleged that Kiddie Academy made various misrepresentations regarding the value of the benefit of the Kiddie Academy curriculum, site selection and construction assistance, and financial performance pro formas, arguing that these misrepresentations induced Wonder World to purchase the franchise. The court disagreed, ruling that the alleged statements made by Kiddie Academy did not give rise to cognizable claims for negligent misrepresentations.

Although Wonder World alleged that Kiddie Academy made inaccurate promotional statements (i.e., franchisees did not need any experience in child care as all training would be provided by Kiddie Academy and Kiddie Academy's curriculum was as good as or better than its competitors), the court found these statements to constitute mere "puffery," and did not constitute concrete facts giving rise to a claim for negligent misrepresentations. Wonder World also alleged that the Kiddie Academy site analysis reports contained inaccurate and misleading information, but the court found this assertion was "blatantly contradicted by the record." Additionally, Wonder World claimed that Kiddie Academy provided financial pro formas regarding the development and operation of a Kiddie Academy center in Austin, Texas, that contained misrepresentations. The court rejected these allegations saying that pro formas by their nature are statements of expectation and not of fact, and further, even assuming that the pro formas constitute false statements, the defendants could not have relied on these statements because the defendants had business experience and repeatedly tinkered with the pro forma over the course of a year. Because the alleged negligent misrepresentations were not statements of fact, were contradicted by the record, or the franchisee had no basis to rely on them, the court granted Kiddie Academy's motion for summary judgment.

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