

BLOGS

Arbitration

Michigan Federal Court Declines to Extend Franchise Agreement Arbitration Provision to Subsequent Service Contract

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A federal court in Michigan has denied a franchisor's motion to compel arbitration because the court determined that the dispute arose from a service contract that was outside the scope of the arbitration provision in the separate franchise agreements. *NH Learning Sols. Corp. v. New Horizons Franchising Grp., Inc.*, 2021 WL 1212578 (E.D. Mich. Mar. 31, 2021). Plaintiffs NH Learning Solutions and 5P NH Holding Co. are longstanding, multi-unit franchisees of New Horizons, offering instructor-led live training in the use of business applications. In 2019, they entered into participation agreements with New Horizons to deliver instruction online. Almost immediately, disputes arose regarding the franchisees' ability to determine course offerings, instructor staffing, and class size. The franchisees allege that these issues were foreseeable to New Horizons, given commitments it had made to another franchisee regarding the online platform in a previous participation agreement. After operating on the platform for ten months, the franchisees withdrew their participation and sued New Horizons for fraudulent misrepresentation and breach of the participation agreements. New Horizons moved to compel arbitration pursuant to each franchise agreement's provision for arbitration of "any dispute . . . arising out of or relating to this Agreement." The franchisees opposed the motion, arguing that the parties' disputes concerned the participation agreements — which have no arbitration provision — and assurances provided by New Horizons related to those agreements.

The court sided with the franchisees, rejecting New Horizons' argument that the franchise agreements control the entire relationship between the parties. The court pointed out that the scope of the arbitration provision is limited to disputes arising out of the franchise agreements, and the participation agreements do not incorporate the dispute resolution provisions of those franchise agreements. In fact, the participation agreements expressly supersede previous agreements through their integration provision. The court reasoned that the franchisees were not challenging New Horizons' performance under the franchise agreements but under the participation agreements. Because the franchisees did not need to refer to the franchise agreements to make out their claims for fraud or breach of the participation agreements, the franchisees were permitted to continue pursuing those claims in court.

Related People

Maisa Frank

Partner

Washington, D.C.

202.295.2209

maisa.frank@lathropgpm.com**Richard C. Landon**

Partner

Minneapolis

612.632.3429

richard.landon@lathropgpm.com

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