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## BLOGS

Fraud/Misrepresentation

# Motion to Dismiss Fraud and Misrepresentation Claims Denied

The United States District Court for the Northern District of California recently denied a franchisor's motion to dismiss claims of fraud and misrepresentation, and allowed the franchisee to proceed with claims that the franchisor misrepresented the feasibility of the independent contractor business model. The parties in *Andersen v. Griswold Int'l, LLC*, Case No. 3:14-cv-02560 (N.D. Cal. Dec. 16, 2014), entered into a franchise agreement under which Andersen operated a nonmedical home care business. He claimed that before the sale of the franchise, Griswold made representations regarding the operation of the business, including that it would be operated under an independent contractor model and that he would not have to comply with applicable wage and hour laws when engaging home care workers. Later, California enacted a law requiring that nonmedical home care workers be paid overtime, and Griswold abandoned the independent contractor model, instructing its franchisees to employ the caregivers. Andersen sued alleging, among other claims, fraud and misrepresentation.

Griswold moved to dismiss the fraud and misrepresentation claims on the basis that it was unable to predict the change in California law and that other statements made to Andersen were mere puffery. The court disagreed and found that, although the change in California law was a prediction of a future event and thus not actionable, Andersen's claims survived because he alleged Griswold represented to him that federal laws would protect the independent contractor model even if state law changed and that Griswold concealed from him that the model was being challenged in other jurisdictions. Griswold also was found to have made some representations too specific to be puffery.

## Related People

### Maisa Frank

Partner

Washington, D.C.

202.295.2209

[maisa.frank@lathropgpm.com](mailto:maisa.frank@lathropgpm.com)