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## BLOGS

Fraud/Misrepresentation

# Negligent Misrepresentation Counterclaim Against Franchisor Barred By Economic Loss Rule

A franchisee's attempt to assert a claim against its franchisor arising out of the sale of franchise development rights failed recently in an Illinois federal court. The court's ruling was based on the economic loss rule. *Ace Hardware Corp. v. Landen Hardware, LLC*, 2011 U.S. Dist. LEXIS 136247 (N.D. Ill. Nov. 28, 2011). Under Illinois law, economic losses allegedly resulting from the tort of negligent misrepresentation cannot be asserted unless the supplier of the incorrect information is in the business of supplying information for the guidance of others in their business transactions, or in other very limited circumstances. The evidence, however, was that plaintiff-franchisor Ace Hardware is in the business of providing franchisees with merchandise, extending credit, granting licenses to use trademarks, and so forth—not simply the business of providing information to franchisees about where to open franchises. Therefore, the franchisee's attempt to raise a counterclaim for damages stemming from the franchisor's alleged misrepresentations that the Cincinnati, Ohio metropolitan area was among the "top ten areas in the country" in which to develop stores could not give rise to a viable tort claim. Accordingly, the economic loss rule barred the franchisee's proposed tort damages against the franchisor, and the counterclaim was dismissed.