

A yellow right-angled triangle pointing towards the top-left corner.

BLOGS
Contracts

New Jersey Appellate Court Affirms Decision Regarding Exclusivity Provision in Lease

The New Jersey Superior Court recently affirmed summary judgment in favor of a retail lessor, holding that an exclusivity provision in a lease agreement with Starbucks did not prohibit the shopping center from also leasing space to a McDonald's franchisee. *Delco LLC v. Starbucks Corp.*, 2015 WL 6159534 (N.J. Super. Ct. App. Div. Oct. 21, 2015). The lease agreement contained an exclusivity provision that prohibited the lessor from leasing space within the shopping center to any tenant (other than Starbucks) for the operation of a business selling coffee, espresso, and tea drinks. The exclusivity provision, however, contained an exception for tenants "occupying twenty thousand contiguous square feet or more . . . and operating under a single trade name." The trial court granted the plaintiff's motion for summary judgment (and the appellate court affirmed) on the basis that the language of the exception plainly entitled the lessor to lease space to a McDonald's where coffee products would also be sold, apparently because McDonald's occupied twenty thousand square feet or more of space.

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