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Class Actions

New Jersey Court Declines to Find Liability for Franchisor in Class Action Sales Tax Collection Dispute

A New Jersey state court granted a franchisor's motion to dismiss a class-action complaint because the court found that, based on the language of the franchise agreements, only the franchisees could be at fault. *Frate v. Dunkin' Brands, Inc.*, 2016 WL 3542402 (N.J. Super. Ct. Law Div. June 28, 2016). Gray Plant Mooty represented the franchisor in this case. The plaintiffs alleged that various New Jersey franchisees had improperly assessed sales tax on bottled water and prepackaged coffee, which are goods that may qualify as grocery items and thus be exempt from New Jersey sales tax. They brought claims against franchisor Dunkin' Brands and franchisees alleging, among other things, that the franchisor played a role in setting prices and collecting sales taxes.

The court held that the plaintiffs improperly named Dunkin' Brands as a defendant because it had no responsibility for collecting sales tax and it had no role in setting prices at individual stores. Further, the court held that the plaintiffs had failed to allege any benefits accruing to Dunkin' Brands from the assessment of sales tax. The franchise agreements relied on in the complaint made individual franchisees directly responsible for the collection and remittance of any sales taxes and the setting of prices in stores. The court noted that when a document referred to in the complaint contradicts conclusory allegations in the complaint, the document controls. Absent evidence of Dunkin' Brands' role in setting sales taxes, the court was unwilling to impute liability to it for the independent actions of its franchisees, and thus the court dismissed the complaint against Dunkin' Brands.

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