

BLOGS

Damages

New Jersey Federal Court Denies Franchisee Judgment on the Pleadings on Future Royalties Claim

A federal court in New Jersey denied a franchisee defendant's motion for judgment on the pleadings on franchisor Golden Corral's breach of contract claims for lost future royalties and marketing fees of \$1,168,368. *Golden Corral Franchising Systems, Inc. v. Scism*, 2021 WL 4490233 (D.N.J. October 1, 2021).

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The franchisee sought to avoid the damages by arguing that (1) the franchisor's termination of the agreement ended the franchisee's obligation to pay the fees; (2) fees were based on sales, which were \$0 after the restaurant ceased to operate; (3) no franchise agreement provision awards future lost royalties; (4) the initial franchise fee recompenses the franchisor for future lost profits; and (5) New Jersey law precludes recovery of lost future royalties where the franchisor terminates the franchise agreement. The court rejected each of these arguments, finding that New Jersey law permits (and the franchise agreement does not preclude) the recovery of lost profits as a result of a breach of contract under appropriate circumstances. Whether those circumstances are present in this case depends on issues of fact that the court could not appropriately decide at such an early stage of the litigation.

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