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## BLOGS

State Franchise and Dealer Laws

# New Jersey Federal Court Dismisses Termination Challenge Under State's Franchise Practices Act

A New Jersey federal district court last week dismissed a franchisee's wrongful termination counterclaims alleging violation of the New Jersey Franchise Practices Act ("NJFPA"). *Kumon N. Am., Inc. v. Timban*, 2014 U.S. Dist. LEXIS 84907 (D.N.J. June 23, 2014). Under the NJFPA, a franchisor normally may not terminate, cancel, or fail to renew a franchise unless it provides advanced written notice of such action and the action is taken for "good cause." After Kumon asserted claims against franchisee Timban for continuing to operate his formerly franchised Kumon Math and Reading Center after termination of his franchise agreement, Timban's counterclaim alleged, among other things, that Kumon's termination was wrongful and violated the NJFPA. Timban argued that, although he made multiple late royalty payments to Kumon, he substantially complied with the franchise agreement because he promptly cured his defaults; thus, he said Kumon lacked "good cause" to terminate the agreement.

The court explained the purpose behind the NJFPA was not to protect franchisees that have lost their franchises as a result of their own misconduct, and it noted a franchisor has a defense to any action under the NJFPA if it shows that the franchisee failed to substantially comply with the agreement. The court held that timely royalty payments constituted "precisely the benefit that Kumon justifiably expected to receive under the Franchise Agreement" and Timban's failure to make these payments constituted a "good cause" to terminate.

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