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Arbitration

New Jersey Federal District Court Denies Franchisee's Motion to Compel Arbitration and Grants Franchisor's Motion to Dismiss

A federal court in New Jersey has denied a motion to compel arbitration in a dispute over alleged breach of a franchise agreement. *Passion for Restaurants, Inc. v. Villa Pizza, LLC*, 2022 WL 18024209 (D.N.J. Dec. 30, 2022).

A federal court in New Jersey has denied a motion to compel arbitration in a dispute over alleged breach of a franchise agreement. *Passion for Restaurants, Inc. v. Villa Pizza, LLC*, 2022 WL 18024209 (D.N.J. Dec. 30, 2022). Over the course of 2012 and 2013, franchisee Passion entered into a series of franchise agreements with Villa to operate Villa Italian Kitchen restaurants. Villa then lost its rights to the trademark, Passion settled a lawsuit with the new trademark owner for \$250,000, and initiated arbitration to recover that amount from Villa. The arbitration agreement required each party to initially pay half of the arbitration fees. Passion did so; Villa did not. When Passion declined to pay Villa's half of the initial deposit, the demand for arbitration was dismissed. Passion then sued Villa in federal court to compel arbitration. Villa moved to dismiss.

The court granted the motion, holding that, under the United Nations Commission on International Trade Law (UNCITRAL) arbitration rules incorporated into the arbitration agreement, proceedings may be terminated if a required deposit is not paid. Further, the court remarked, procedural matters concerning the appropriate course of action when a party fails to pay required arbitration fees appropriately fall within the discretion of the arbitrator in the first instance. As a result, the Federal Arbitration Act did not permit the granting of Passion's motion to compel arbitration, although the court noted that Passion remained free to pursue relief in a court of competent jurisdiction.

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