

**BLOGS**

Americans with Disabilities Act

New York Federal Court Dismisses ADA Claims Against Franchisor

A federal court in New York recently granted Yum! Brands' motion to dismiss ADA and New York State Human Rights Law claims brought against it by a customer of a Kentucky Fried Chicken franchise. *Zuchengno v. FQSR, LLC*, 2022 WL 1214406 (W.D.N.Y. Apr. 25, 2022).

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In dismissing the claims against Yum!, the court held that the plaintiff had failed to plead facts sufficient to show that Yum! owned, leased, or operated the restaurant at issue. While the plaintiff did allege that Yum! directed the franchisee's employees' training, required the franchisee to follow strict rules of operation, controlled food and beverage prices, and had the right to terminate the franchise rights for noncompliance, the court found this inadequate. The court held that the complaint could only survive a motion to dismiss where it alleged facts sufficient to demonstrate that Yum! controlled the specific instrumentality at issue in the case, namely, those aspects of the franchised business relating to accessibility. The court also dismissed the plaintiff's allegations that Yum! could be held vicariously liable for the franchisee's alleged violations because, like the analysis of the alleged federal and state law violations, the plaintiff needed to plead facts showing that Yum! controlled the instrumentality at issue in the case.

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