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BLOGS

Terminations

Ninth Circuit Affirms Summary Judgment in Franchisor's Favor

The United States Court of Appeals for the Ninth Circuit upheld the termination of a group of franchisees based on their failure to make required payments and their abandonment of one of their franchised offices. *Century 21 Real Estate LLC v. All Profl Realty, Inc.*, 2015 U.S. App. LEXIS 645 (9th Cir. Jan. 15, 2015). After Century 21 filed suit to enforce termination of the parties' franchise agreements, the franchisees asserted a variety of counterclaims, including breach of contract, unfair competition, breach of the implied covenant of good faith and fair dealing, and violation of the California and Hawaii franchise sales laws. The district court entered summary judgment in Century 21's favor on all claims and counterclaims.

On appeal, the Ninth Circuit affirmed the district court's decision. The court held that Century 21 was entitled to summary judgment on its contract claims because the undisputed evidence showed that the franchisees breached the franchise agreements by not paying required fees, not paying the principal due on a promissory note, and abandoning one of their franchise locations. Likewise, the franchisees failed to establish that Century 21 had not fully performed under the franchise agreements. The franchisees' claims for unfair competition and breach of the implied covenant duplicated their contract claims and, therefore, failed as a matter of law. The court also upheld the dismissal of the franchisees' claims under the California and Hawaii franchise investment laws because Century 21 had good cause to terminate the franchise agreements. The Ninth Circuit further determined that the district court did not err in enforcing the liquidated damages provision in the franchise agreements because the damages were reasonably calculated. Finally, treble damages were appropriate because the franchisees' post-termination use of Century's 21 trademarks was willful and likely to cause confusion.

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