

**BLOGS**

Contracts

Ohio Federal Court Grants Franchisor Attorneys' Fees for Successfully Dismissing Fraud Claims Even Though Other Claims Remain Pending

A federal court in Ohio has awarded a franchisor the attorneys' fees incurred in dismissing its former franchisees' fraud-based claims, even though breach of contract claims remained to be litigated. *CajunLand Pizza, LLC v. Marco's Franchising, LLC*, 2022 WL 3960574 (N.D. Ohio Aug. 31, 2022).

A federal court in Ohio has awarded a franchisor the attorneys' fees incurred in dismissing its former franchisees' fraud-based claims, even though breach of contract claims remained to be litigated. *CajunLand Pizza, LLC v. Marco's Franchising, LLC*, 2022 WL 3960574 (N.D. Ohio Aug. 31, 2022). CajunLand Pizza and five other former franchisees sued Marco's Franchising, LLC, claiming that Marco's had breached the parties' contracts, made misrepresentations to induce the franchisees to invest in franchises in violation of the Ohio Deceptive Trade Practices Act (ODTPA) and the Ohio Business Opportunities Act (BOPA), and engaged in unfair competition. Marco's successfully moved to dismiss the franchisees' ODTPA and BOPA claims, as well as the unfair competition claim. Once the breach of contract claim was all that remained, Marco's brought counterclaims against the franchisees for failing to pay Marco's attorneys' fees pursuant to a fee provision in the franchise agreements.

The parties' franchise agreements provided that the franchisees would pay Marco's costs and expenses, including reasonable attorneys' fees, incurred in successfully defending any claim that Marco's defrauded the franchisees into signing the franchise agreement, or that the terms of the agreement were not fair, not properly entered into, or did not govern the parties' relationship. Because the franchisees' ODTPA and BOPA claims were based on a fraudulent inducement theory, the court found that the provision entitled Marco's to its attorneys' fees for successfully moving to dismiss those claims. The dismissed unfair competition claim did not fall under the provision, however, because it was based on events occurring *after* the relevant agreements were entered into. Although breach of contract claims were still pending against Marco's, the court concluded that Marco's fees on the fraud-based claims could be awarded in the interim because winning a motion to dismiss constituted a "successful defense" and nothing related to those claims would change before the end of the litigation.

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