

Procedural Disputes Subject to Arbitration

Meanwhile, a federal court in New Jersey granted a franchisor's motion to compel arbitration finding, among other things, that a franchisee's claims fell within the scope of the parties' arbitration agreements (as contained in seven franchise agreements), and that any differences between the arbitration provisions could be reconciled. *Mitnick v. Yogurtland Franchising, Inc.*, 2017 WL 3503324 (D.N.J. Aug. 16, 2017). The franchisee had argued that the arbitration provisions contained different language, were in conflict, and did not specify a uniform method of arbitration. While the court acknowledged the differences in the various arbitration provisions, it compelled arbitration reasoning that the differences were trivial and could be reconciled in a single arbitration action.

The franchisee further argued that, based on clauses contained in the franchise agreements, the court should compel the parties to mediate their claims before proceeding with arbitration. In response, Yogurtland maintained that by filing a court action, the franchisee waived its right to invoke the mediation clauses. In declining to rule on this issue, the court found that while claims of arbitrability were within its jurisdictional scope, procedural disputes between the parties relating to the arbitration process must be decided by an arbitrator. As a result, the court held that any procedural disagreement between the parties must be resolved through arbitration.

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