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BLOGS

Jurisdiction and Procedure

Texas-Based Franchisor Establishes Specific Personal Jurisdiction Over European Defendants on Appeal

The Texas Court of Appeals recently held that Falco Franchising, a Belgian entity, and its related principals had sufficient contacts with Texas to subject them to personal jurisdiction in the state. *Jani-King Franchising, Inc. v. Falco Franchising, S.A.*, 2016 WL 2609314 (Tex. App. May 5, 2016). Jani-King, a Texas entity, had granted Falco the right to operate a commercial-cleaning franchise in Belgium pursuant to a franchise agreement governed by Texas law. Falco later defaulted on its reporting and payment obligations to Jani-King and gave notice to Jani-King that it intended to terminate the franchise agreement. Jani-King then filed suit in Texas after allegedly discovering that Falco and its principals had secretly formed a competing business and had misused JaniKing’s confidential information.

The trial court held that it could not exercise personal jurisdiction over Falco’s principals, and Jani-King appealed, arguing that specific jurisdiction over Falco’s principals was proper based on their commission of a tort in Texas. Specifically, JaniKing claimed that Falco’s principals: (i) personally misrepresented the causes for Falco’s poor performance, (ii) led Jani-King to believe that Falco was dedicated to the franchise relationship when it was not, and (iii) concealed the fact that Falcos was operating a competing business. Overturning the decision of the trial court, the appeals court noted that the liability of the defendants in this matter, if any, would arise from the type and scope of information that Falco’s principals provided to and withheld from Jani-King in Texas. The court concluded that specific personal jurisdiction over Falco’s principals was established given that their contacts with Texas were purposeful, Jani-King’s claims arose from or related to such contacts, and the exercise of jurisdiction in this case comported with traditional notions of fair play and substantial justice.

Related People

Maisa Frank

Partner

Washington, D.C.

202.295.2209

maisa.frank@lathropgpm.com