

**BLOGS**

Jurisdiction and Procedure

## Texas Federal Court Grants Franchisee's Motion to Remand

The U.S. District Court for the Eastern District of Texas has granted a franchisee's motion to remand a case back to state court after finding that its complaint did not raise a substantial issue of federal law. *KMCC Enters., LLC v. Savvy Chic Mgmt. Inc.*, 2018 WL 5295812 (E.D. Tex. Oct. 25, 2018). KMCC Enterprises entered into a franchise agreement with Savvy Chic to operate a nonsurgical weight loss franchise. KMCC later sued Savvy Chic under the Texas Business Opportunities Act (TBOA) alleging that Savvy Chic induced KMCC to enter into the franchise agreement with false representations about the business. The Texas state court granted Savvy Chic's motion to remove the case to federal court on the grounds that the case required interpretation of federal statutes and regulations in order to adjudicate the alleged violation of the TBOA. KMCC then filed a motion to remand the case back to state court.

In granting KMCC's motion, the federal court reasoned that it could not exercise its limited jurisdiction over the case unless KMCC's complaint raised a disputed and substantial federal issue. The TBOA requires interpretation of federal law, such as 16 C.F.R. Part 436 (the FTC Franchise Rule), to adjudicate possible exceptions to the statute, which Savvy Chic raised as an affirmative defense. However, KMCC's complaint, on its face, did not require any reference to or interpretation of federal law. The court concluded that even if it considered the federal law to be tied to the complaint and not the affirmative defense, it still would decline to exercise jurisdiction over the case. According to the court, the case did not present a substantial federal issue given that the FTC Franchise Rule does not create a private cause of action and does not permit preemption of state remedies.

### Related People

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