

A solid yellow right-angled triangle pointing towards the top-left corner.

BLOGS

Post-Termination Injunctions: Trademarks

Texas Federal Court Grants Preliminary Injunction for Franchisor in Nonpayment Case

A Texas federal court recently issued a preliminary injunction preventing the defendants/franchisees from continuing to use plaintiff TGI Friday's Inc.'s trademarks following the termination of the parties' franchise agreements. *TGI Friday's Inc. v. Great Northwest Restaurants, Inc. et al.*, 2009 WL 2568269 (N.D. Tex. Aug. 20, 2009).

The court held that TGI Friday's had demonstrated a substantial likelihood that it would prevail on the merits of its termination case because there was no dispute that the franchisees had ceased paying franchise fees and continued to use the company's trademarks after termination of the franchise agreements. The court rejected the franchisees' argument that termination was improper because the inability to pay fees was due to the franchisor's change in its food distribution system, which the franchisees claimed was discriminatory and cost-prohibitive. The court noted longstanding precedent requiring that if the franchisees believed TGI Friday's had breached its contract, they could have either continued to perform under the contract and sued for partial breach, or they could have considered the contract terminated. They were not allowed, however, to cease performing their payment obligations while continuing to treat the agreement as valid and using the trademarks. The court therefore found TGI Friday's motion for an injunction appropriate and rejected the franchisees' request for a \$10 million bond. Instead, based in part on its view of TGI Friday's likelihood of success on the merits, it ordered TGI Friday's to post a bond of \$100,000.