

BLOGS
Procedure

Third Circuit Finds Franchisee's Claims Not Precluded by Previous Suit

In *Hopkins v. GNC Franchising, Inc.*, 2008 WL 3845375 (3d Cir. Aug. 19, 2008), the Third Circuit Court of Appeals overturned a Pennsylvania federal court's decision dismissing a terminated franchisee's second lawsuit against franchisor GNC for breach of contract and tortious interference with contract. The Third Circuit allowed both claims to proceed against the franchisor.

The district court had found that the terminated franchisee's claims were barred by the doctrine of issue preclusion, which bars a subsequent action from being decided when there previously has been a final judgment on the merits involving the same parties and the same causes of action. In overturning the district court's opinion, the Third Circuit held that there had not been a final determination on the merits relating to the franchisee's previous tortious interference claim because that claim had been dismissed without prejudice. The appellate court also held that the franchisee's breach of contract claim was different from the claims for breach of the covenant of good faith and fair dealing and common law fraud, which had previously been brought against GNC. Finally, the Third Circuit held that the district court erred in its alternate grounds for dismissal—that the franchisee had failed to state a claim for which relief can be granted. In reviewing the elements of both breach of contract and tortious interference, the Third Circuit held that the franchisee had alleged sufficient facts to bring both claims.