

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

BLOGS

Defamation

Court Holds That Franchisees Can Proceed With Action For Defamation Based on Statements Appearing on Franchisor's Website

In reinstating franchisees' claims for defamation, the Florida Court of Appeals recently held that statements made by a franchisor on its website are not protected by the "litigation privilege." *Ball v. D'Lites Enterprises, Inc.*, 65 So. 3d 637 (Fla. Ct. App. July 27, 2011). When the franchisees sued their franchisor regarding representations as to the nutritional content of its products, the franchisor placed a statement on its website stating that the products sold by the franchisees under the franchisor's trademarks were unauthorized and constituted a "hoax" on the public. The franchisees then amended their complaint to allege claims for defamation. The franchisor moved to dismiss, arguing that its website statements were protected by the "litigation privilege."

The court of appeals held that the claims could go forward. Although statements made in the course of, or ancillary to, a judicial proceeding are privileged, the court found that statements made on a commercial website did not fall into that category. Rather, statements on a website were found to be analogous to statements made in press conferences and press releases, which are not protected.