

## BLOGS

Franchise Sales/Transactions

# Court Upholds Narrow Definition of “Consumer” Under Illinois Consumer Fraud and Deceptive Business Practices Act

Chicago Male Medical Clinic (CMMC) brought suit against Ultimate Management, Inc. (UMI), a company that licenses and oversees a national affiliation of medical clinics, alleging, among many counts, that UMI had fraudulently induced CMMC's investment and had violated the Illinois Franchise Disclosure Act, the Illinois Consumer Fraud & Deceptive Business Practices Act, as well as common law fraud and breach of contract. In *Chicago Male Medical Clinic, LLC v. Ultimate Management, Inc.*, 2012 U.S. Dist. LEXIS 183257 (N.D. Ill. Dec. 28, 2012), the court addressed several motions, including UMI's request to dismiss all fraud claims (including under the franchise disclosure act).

The court granted UMI's motion to dismiss the fraud counts brought under common law and the IFDA, stating that the mere assertion that the business investment was obtained “through lies and deception” did not meet the heightened pleading requirement for fraud under Rule 9(b) of the Federal Rules of Civil Procedure. As for the claim that CMMC had violated the consumer fraud act, UMI argued that CMMC had failed to establish standing because a business only has standing to sue if it alleges that the misconduct was directed at the market in general. However, CMMC argued that it had standing as a “consumer.” A consumer, as defined by the consumer fraud act, purchases merchandise (including intangible rights) for personal use. The court found that franchise services could not be used for personal use and held that CMMC's claim fell outside of the consumer fraud act.

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