

BLOGS

Jury Demand and Waiver

Federal Court Denies Motion to Strike Jury Trial Demand Despite Jury Waiver Provisions, but Does so Without Prejudice

A magistrate judge for the United States District Court for the Eastern District of Michigan has denied, without prejudice, a motion to strike an untimely demand for a jury trial made by a group of franchisees. *L.A. Insurance Agency Franchising, LLC v. Montes*, 2015 WL 9314738 (E.D. Mich. Dec. 23, 2015). The franchisees waited until five months after filing their answer to the complaint to assert their demand for a jury. L.A. Insurance, the franchisor, then sought to strike the jury demand, arguing that the franchisees had waived their right to a jury because each franchise agreement contained a jury-waiver provision, and the jury demand was made after the deadline. The franchisees responded that the jury-waiver provisions were unenforceable because the franchise agreements were contracts of adhesion and were procured by fraud, and the importance of the right to a jury trial outweighed their failure to make a timely jury demand.

Regarding the jury waiver provisions, the court held that the proceedings had not yet progressed to the stage where the enforceability of the franchise agreements could be determined. The court observed, however, that discovery and further motion practice could ultimately show, as a matter of law, that the jury-waiver provisions were enforceable. Regarding the timeliness argument, the court held that the franchisees' failure to make their jury demand before the deadline, without more, did not warrant an order striking the demand.

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