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BLOGS

Choice of Law

Ninth Circuit Upholds Restriction on Application of Washington Franchise Investment Law to Conduct in State

The Ninth Circuit recently confirmed that a state franchise law does not apply to claims involving out-of-state franchisees even if the franchise agreement has a choice of law provision applying that state's law. The franchisees in *Taylor v. 1-800-GOT-JUNK?, LLC*, 2010 U.S. App. LEXIS 14433 (9th Cir. July 14, 2010), operated a junk removal franchise in Oregon pursuant to a franchise agreement that contained a Washington choice of law provision. Neither the franchisees nor the franchisor were Washington residents. A previous dispute between the parties, in which the franchisees were not represented by counsel, had been settled and the settlement agreement included a broad mutual release. Nevertheless, the franchisees subsequently filed suit against the franchisor in federal court, raising claims under the Washington Franchise Investment Protection Act (FIPA), Wash. Rev. Code § 19.100-.940. The franchisor invoked the release to bar the claims. FIPA has an anti-waiver provision that voids any agreement that seeks to waive compliance with the statute unless the waiver was executed pursuant to a settlement in which the party was represented by counsel. The franchisees asserted that they had not released their FIPA claims because they had not been represented by counsel when they entered into the settlement agreement.

The district court granted summary judgment to the franchisor on the grounds that FIPA's anti-waiver provision had not been violated because the statute did not apply to a franchise sale that took place in Oregon. The Ninth Circuit affirmed, finding that "by its terms, FIPA applies only to conduct occurring in Washington." The court rejected the franchisees' argument that FIPA's territorial restriction was trumped by the franchise agreement's Washington choice of law provision. When a law "contains geographic limitations on its application," the court noted, it will not be applied "to parties falling outside those limitations, even if the parties stipulate that the law should apply."