



IFA LEGAL SYMPOSIUM

Basics Track: Franchise Litigation

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Speakers

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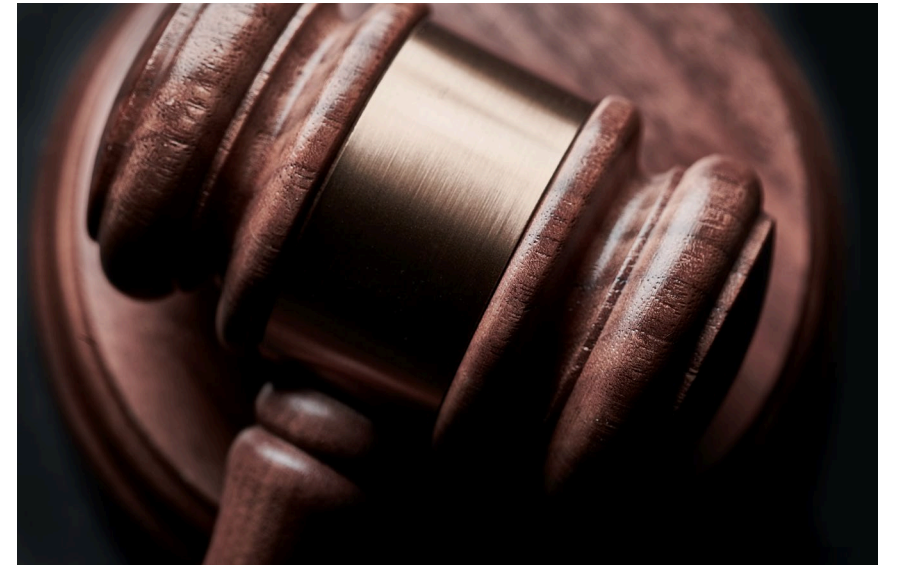
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Overview

- Litigation Strategy
- Jurisdiction, Venue & Forum Selection
- Alternative Dispute Resolution
- Motion Practice
- Common Claims, Defenses, and Remedies
- Discovery
- Settlement Considerations
- The Impact of Covid-19 on Franchise Litigation

Litigation Strategy

- Considerations:
 - Franchising is regulated by both federal and state franchise laws
 - Effect of litigation on the franchise system
 - Disclosure requirements
 - Item 3
 - Item 20
 - Relative means of the parties
 - Ongoing business relationship



Jurisdiction, Venue & Forum Selection

- Jurisdiction
 - Subject Matter Jurisdiction
 - Personal Jurisdiction
- Venue and Forum Selection
 - Motions to Transfer Venue
- Choice of Law

Alternative Dispute Resolution

- Mediation
- Arbitration
 - Procedure
 - Enforcement of arbitration provisions



Motion Practice

- Motions to transfer venue
- Motions to compel arbitration
- Motions to dismiss
- Motions for preliminary injunctions
 - Prevent termination
 - Enforce post-termination obligations
- Dispositive motions

Common Claims, Defenses, and Remedies

- Frequent Franchisee Claims and Franchisor Defenses
- Frequent Franchisor Claims and Franchisee Defenses
- Remedies

Frequent Franchisee Claims and Franchisor Defenses

- The “Accidental” Franchise
- Disclosure and/or Registration Violations
- Misrepresentation and Unauthorized FPRs
- Violation of State Relationship Statutes
- Unfair or Deceptive Trade Practices
- Breach of the Implied Covenant of Good Faith and Fair Dealing
- Encroachment of Exclusive Territories

Frequent Franchisee Claims and Franchisor Defenses

- Wrongful Termination of Franchise Agreement
- Refusal to Renew Franchise Agreement
- Denial of Right to Transfer or Assign Franchise Agreement
- Failure to Provide Training and Support
- Marketing Fund Mismanagement
- Antitrust and Tying Restraints

Frequent Franchisor Claims and Franchisee Defenses

- Noncompliance with System Standards
- Failure to Pay Royalties and Other Contractual Payments
- Holdover Franchisees / Trademark Infringement
- Improper Use / Disclosure of Confidential Trade Secrets
- Violation of In-Term Noncompetes
- Violation of Post-Term Noncompetes

Remedies

- Contract Damages
- Rescission and Restitution
- Injunctive Relief
- Specific Performance
- Declaratory Judgments
- Punitive Damages
- Attorneys' Fees



Discovery

- Written Discovery
- Depositions
 - Parties
 - Employees
 - Experts
- Experts
 - Damages
 - Franchising
- Discovery Motions

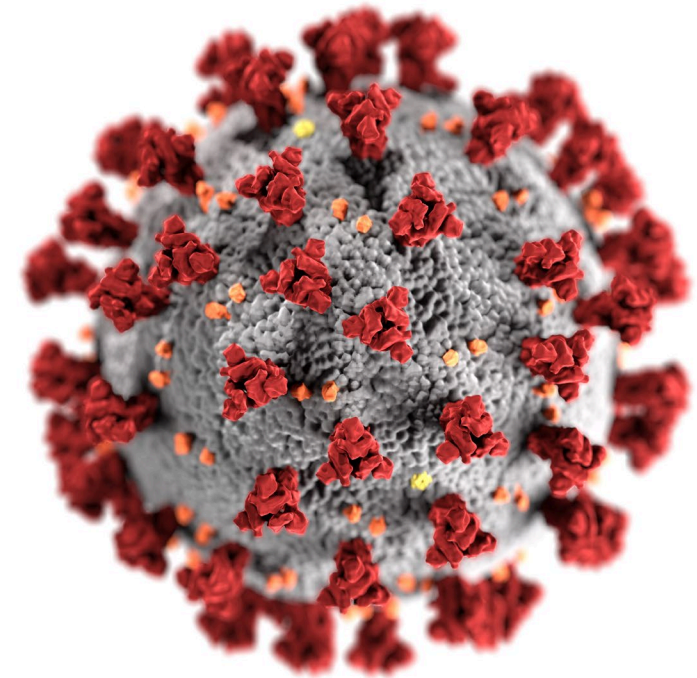
Settlement Considerations

- Common Settlement Provisions
- Item 3 Obligations



The Impact of COVID-19 on Franchise Litigation

- Force Majeure Provisions
- Impracticality/Impossibility Defenses
- Frustration of Purpose Defense



The Impact of COVID-19 on Franchise Litigation

- Strategic Considerations
 - Franchisee relations
 - Public relations
- Remote litigation
 - Depositions
 - Hearings
 - Mediations
 - Arbitrations/Trials



Questions?

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