

You are receiving this periodical based upon previous specific and general contacts with Goldstein Law Firm, PLLC regarding franchise law issues. We look forward to keeping you updated on the current trends in franchise court decisions around the country in both state and federal courts.

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Franchise Articles

Arbitration Clause in Subway Franchise Agreement Booted by Court of Appeals

[Doctor's Associates Inc. v. Jose Luis Carbonell, et al., New Mexico, 2015 WL 4380284 \(June 29, 2015\), addressing an arbitration clause in a Subway franchise agreement.](#)

My view is that Arbitration clauses in franchise agreements are on balance more helpful than not to franchisees and dealers, and this position has remained consistent throughout my career representing exclusively franchisees and dealers as a franchise lawyer. That is not to say, however, that during my frequent, ongoing and methodical reassessments of the benefit of Arbitration clauses I have always reached the same net value on the balancing scale. To the contrary; over time, my positive assessments have been veering downward...

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The Unintended Consequences to Franchising of the NLRB's New Joint Employer Test

Like all other government regulation, the new NLRB joint employer test has unavoidable unintended consequences. The Browning-Ferris joint-employer decision will likely send many franchisors back to the drawing board to find aspects of their systems about which they can relinquish legal and operational control and responsibility to their franchisees...

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Dairy Queen Store Melted in Franchisee Termination

[American Dairy Queen Corporation v. Wardlow, 2015 WL 5178454, United States District Court, D. South Dakota \(September 4, 2015\)](#)

When a Dairy Queen franchisee failed to show up in federal court to defend against its franchisor's (ADQ or Dairy Queen) emergency motion to enforce the franchisee termination by getting a court order to shut it down, the Judge, embracing a very traditional legal analysis, ordered that the franchisee cease operations. Not surprisingly, preliminary injunctions arising out of disputes in the fast food franchise industry are prolific...

Post-Term Franchise Noncompete Clause Killed

[Jani-King of Omaha v. Anthony Waadah, 290 Neb. 629, Supreme Court of Nebraska. April 10, 2015](#)

The infamous and ruinous post-term franchise noncompete clause reared its ugly head again, this time in the Nebraska Supreme Court. Although many post-term restrictive covenants (also known as franchise covenants not-to-compete or franchise noncompete clauses) in distribution and franchise agreements are upheld as valid and reasonable, some of them nevertheless remain vulnerable to successful legal challenge...

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Franchise Antitrust Claims Defective

[Insulate SB v. Advanced Finishing Systems, Inc., 2015 WL 4760287, United States Court of Appeals, Eighth Circuit, Aug. 13, 2015.](#)

Another franchise antitrust conspiracy claim smothered early in the case. This franchise antitrust putative class action suit involved claims by a purchaser of fast-set foam spray equipment against its manufacturer, the manufacturer's subsidiary, and numerous distributors, including conspiracy in restraint of trade, conspiracy to acquire monopoly power, use of exclusionary contracts to lessen competition, and violations state consumer protection laws. The defendants moved to dismiss, and the motion was granted by the United States District Court for the District of Minnesota. In turn, the purchaser appealed to the United States Court of Appeals for the Eighth Circuit, which confirmed the lower court ruling...

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