Franchisor's Release Clauses Fail to Bar Franchisee's Fraud Claims Over Misleading Financial Projections

Abstract

This article analyzes the United States District Court for the Eastern District of Pennsylvania's June 5, 2026 decision in *MDR United, LLC v. Backporch Partners, Inc.*, 2026 U.S. Dist. LEXIS 127689. The court addressed a franchisor's motion to dismiss counterclaims brought by a franchisee alleging fraudulent misrepresentation, breach of contract, and violations of consumer protection statutes. The court held that releases in franchise agreements do not extinguish unaccrued claims or claims for intentional tortious conduct, that franchisees as assignees have standing to assert pre-assignment fraud claims, and that contractual choice-of-law provisions cannot override state consumer protection statutes with anti-waiver provisions. The decision has significant implications for franchise disclosure practices, release clause enforceability, and the scope of consumer protection statutes in franchise transactions.

Case Identification and Parties

The United States District Court for the Eastern District of Pennsylvania issued its decision in *MDR United, LLC v. Backporch Partners, Inc.*, 2026 U.S. Dist. LEXIS 127689, on June 5, 2026. The case involved MDR United, LLC, a franchisor and plaintiff in the underlying action, and Backporch Partners, Inc., a franchisee and counterclaim plaintiff. Additional defendants included Brock Warner and Janelle Warner, the original franchisees who later assigned their interests to Backporch, as well as Bisonworks, LLC and Justin Morris. The Warners operated as individual franchisees before transferring their franchise rights to Backporch, a corporate entity they controlled. MDR operated the Mighty Dog Roofing franchise system and served as franchisor throughout the relationship.

Factual Background

In 2020, Brock and Janelle Warner learned about the Mighty Dog Roofing franchise system and expressed interest in purchasing franchise territories in the Nashville, Tennessee area. During the franchise sales process, MDR's Director of Franchise Development, Zach Beutler, provided the Warners with an MDR Unit Economics Excel Worksheet on or about March 2, 2021. The Workbook contained financial performance information for Mighty Dog Roofing franchises, which Backporch later alleged was selective and misleading. MDR subsequently provided the Warners with a Franchise Disclosure Document dated April 29, 2021, which contained information identical to the Workbook.

Backporch alleged that MDR failed to disclose critical information about the financial projections shown in these documents. Specifically, the financial performance data came from only two franchises operating under grandfathered terms that were not available to new franchisees, including reduced royalty rates and reduced operational costs. At the time, eight franchises were operating within the MDR system. Backporch further alleged that Item 6 of the FDD failed to disclose a mandatory requirement for all franchisees to employ a roof qualifier, and that Item 11 contained false and misleading assertions regarding training that MDR provides.

On or about May 27, 2021, relying on the information in the Workbook and FDD, the Warners acquired four territories from MDR by executing four Franchise Agreements. The Warners paid a multi-unit initial franchise fee of $159,000 to MDR. On July 28, 2021, the Warners assigned their individual ownership interest in each Franchise Agreement to Backporch Partners, Inc., with MDR's consent. The Assignment Agreement transferred all rights under the Franchise Agreements from the Warners to Backporch.

After the Warners opened their franchise operations, Backporch alleged that it became clear MDR had sold the franchise opportunity without possessing the personnel, infrastructure, or resources to meet its obligations under the Franchise Agreement. Brock Warner raised grievances with MDR on numerous occasions but did not receive assistance. Backporch identified several material breaches by MDR, including failure to provide local SEO optimization during the first year of operations, failure to establish national advertising and brand promotion, failure to provide an operational call center despite collecting call center fees, and failure to conduct market-appropriate local advertising and promotion. On July 10, 2025, the Warners sent MDR a letter rescinding the Franchise Agreements, effective July 18, 2025.

Procedural History and Holdings

On August 9, 2025, MDR filed its complaint against Backporch, the Warners, Bisonworks LLC, and Justin Morris, asserting five breach of contract claims. Defendants answered the complaint on September 22, 2025, and Backporch filed a counterclaim asserting six counts: fraudulent misrepresentation, negligent misrepresentation, breach of contract, breach of the implied covenant of good faith and fair dealing, violation of the Tennessee Consumer Protection Act, and violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law. MDR filed a motion to dismiss the counterclaim on October 13, 2025, pursuant to Federal Rules of Civil Procedure 12(b)(6), 12(b)(1), and 9(b).

The court granted MDR's motion in part and denied it in part. The court dismissed Count II (negligent misrepresentation) with prejudice, finding it released under a fraud-specific release provision in the Franchise Agreements that did not contravene public policy as applied to negligence claims. The court dismissed Count IV (breach of implied covenant of good faith and fair dealing) with prejudice because Pennsylvania law does not recognize an independent cause of action for breach of implied covenant when a breach of contract claim is asserted. The court dismissed Count V (Tennessee Consumer Protection Act violation) without prejudice because the allegations failed to establish that the alleged violations were predominantly intrastate in character. The court dismissed Count VI (Pennsylvania Unfair Trade Practices and Consumer Protection Law violation) with prejudice because the purchase of franchise territories for business operation does not qualify as a purchase for personal, family, or household purposes.

The court denied MDR's motion as to Count I (fraudulent misrepresentation) and Count III (breach of contract). The court held that Backporch had standing as assignee to assert pre-assignment fraud claims, that the general releases in the Franchise Agreements did not extinguish unaccrued claims, that the fraud-specific release did not bar intentional misrepresentation claims, and that Backporch adequately pleaded fraudulent misrepresentation under Rule 9(b).

Parties' Positions

MDR argued that all counterclaims should be dismissed on multiple grounds. MDR contended that Backporch lacked standing to assert pre-sale claims because the alleged misrepresentations were made to the Warners before Backporch became a party to the Franchise Agreements. MDR asserted that two general releases in the July 28, 2021 Assignment Agreement and the October 19, 2022 Negotiated Amendment barred all counterclaims because they released claims arising through the dates of those agreements. MDR further argued that a fraud-specific release provision in the Franchise Agreements waived Backporch's right to obtain remedies based on fraud, misrepresentation, or deceit. MDR contended that a one-year contractual limitation period and Pennsylvania's two-year statute of limitations for fraud barred the claims. MDR argued that Backporch failed to meet Rule 9(b)'s particularity standard for fraud, could not establish justifiable reliance due to integration and no-reliance clauses, and that the gist of the action and economic loss doctrines barred tort claims arising from contractual duties.

Backporch responded that as assignee of the Franchise Agreements it stood in the shoes of the Warners and possessed standing to assert all claims arising from the franchise relationship. Backporch argued that Pennsylvania law does not permit releases to extinguish claims that had not yet accrued by the dates of the releases, and none of its claims had accrued by October 19, 2022. Backporch contended that releases for intentional tortious conduct are against public policy and cannot be enforced under Pennsylvania law. Backporch argued it could not determine from the face of the counterclaim when its claims accrued, making dismissal on statute of limitations grounds premature. Backporch asserted it adequately pleaded the who, what, when, where, and how of the alleged fraud. Backporch argued the integration clause expressly carved out representations made in the FDD, preserving its ability to rely on those representations. Backporch contended its fraud claims arose from pre-contractual duties independent of the Franchise Agreements and were not barred by the gist of the action or economic loss doctrines.

Franchise Agreement Provisions in Dispute

The Franchise Agreements contained several provisions central to the court's analysis. The Assignment and Consent to Transfer Agreement dated July 28, 2021, included two general release provisions. Paragraph 4 provided that the Assignor (Brock Warner) released MDR from all claims "through the date of this Agreement" arising from the franchise relationship. Paragraph 5 provided that the Assignee (Backporch) and Guarantors (the Warners) released MDR from all claims "through the date of this Agreement." The releases covered claims arising from "the offer, sale, and operation of the Franchised Business" and claims under "any state franchise regulations or franchise relationship laws."

The October 19, 2022 Negotiated Amendment contained similar release language with one modification: it released claims that the parties "have, had, or might claim to have against the Franchisor Releasees through the date of this Amendment." This language differed from releases in other cases that explicitly released "future claims" or claims the parties "hereafter may have."

The Franchise Agreements also contained a fraud-specific release in Provision 18.9.1, which stated: "Franchisee hereby waives the right to obtain any remedy based on alleged fraud, misrepresentation, or deceit by Franchisor, including, without limitation, rescission of this Agreement." This provision included an exception for rights "expressly granted by any applicable statute expressly regulating the sale of franchises."

The integration clause stated: "This Agreement contains the entire Agreement of the parties. There are no representations either oral or written, except those contained in this Agreement." Critically, the clause concluded: "Nothing in this Agreement or any related agreement is intended to disclaim the representations Franchisor made in the franchise disclosure document furnished to Franchisee."

The Franchise Agreements imposed specific obligations on MDR, including providing local SEO optimization during the first year of operations (Paragraph 3.6), establishing national advertising and brand promotion (Paragraph 3.7), providing an operational call center (Paragraph 3.9), and conducting market-appropriate advertising and promotion (Paragraph 12.5.2).

The Court’s Analysis and Resolution of the Standing Issue

The court first addressed whether Backporch had standing to assert pre-sale claims based on misrepresentations made to the Warners before Backporch became party to the Franchise Agreements. The court applied Pennsylvania law governing assignments of contractual rights. Under Pennsylvania law, when an assignment is effective, “the assignee stands in the shoes of the assignor and assumes all of his rights.” The court emphasized that parties who execute a contract without restrictions on assignability “must be bound by that provision and not be permitted to avoid the consequences of such an action by specious challenges.” Among the rights possessed by an assignee are the remedies the assignor once possessed.

The court found that the Assignment Agreement expressly transferred all rights under the Franchise Agreements from Brock and Janelle Warner to Backporch. MDR consented to the transfer by signing the Assignment Agreement. Neither party disputed the effectiveness of the assignment. The court concluded that because the Assignment Agreement contained language expressly assigning the Warners’ rights, because neither party disputed its effectiveness, and because Pennsylvania law provides for the assignment of rights via effective assignment, Backporch stood in the shoes of the Warners and had standing to bring the pre-sale fraud claims.

The court rejected MDR's argument that only the Warners could assert reliance on pre-assignment representations. The court reasoned that Pennsylvania assignment law transfers not just contract rights but also remedies for violations of those rights, including tort remedies for fraudulent inducement. This reasoning may suggest that franchisees structured as corporate entities may be able to assert fraud claims based on representations made during negotiations with individual principals before formal assignment.

The Court's Analysis and Resolution of the General Release Issue

The court next analyzed whether the general releases in the July 2021 Assignment Agreement and the October 2022 Amendment barred Backporch's counterclaims. MDR argued that Pennsylvania courts uphold releases extinguishing unaccrued claims when the release contains sufficiently broad language. The court acknowledged that Pennsylvania courts have upheld such releases where contracts released "known or unknown, suspected or unsuspected, past, present and future claims."

The court distinguished the releases at issue from those in prior Pennsylvania cases. The court noted that unlike releases upheld in other cases, the releases here did not explicitly contemplate future claims. The release language stated that Backporch and the Warners released claims they "have, had, or might claim to have." The court observed that this language notably omitted references to "future claims," "unaccrued claims," or claims "hereafter may have."

The court adopted reasoning from a recent decision addressing an identical release provision. The court explained that "the use of the term unknown claims presupposes the existence of those claims," noting that "unknown claims do not encompass unaccrued claims as the latter do not exist as claims." The court further emphasized that the releases were limited to claims the parties had "through the date of this Amendment [or Agreement]," creating a temporal limitation absent from releases in cases MDR cited.

The court held that under Pennsylvania law, a fraud claim accrues "when a party knew or should have reasonably known of the injury and its causes." Because the allegations in the counterclaim did not establish when the counterclaims accrued, the court concluded the counterclaims could not be dismissed under the general releases at the motion to dismiss stage.

The Court's Analysis and Resolution of the Fraud-Specific Release Issue

The court separately analyzed Provision 18.9.1, which waived "the right to obtain any remedy based on alleged fraud, misrepresentation, or deceit." The court characterized this as an exculpatory provision despite MDR's framing of it as a limitation on remedies. Under Pennsylvania law, exculpatory provisions are enforceable when three conditions are met: the clause must not contravene public policy, the contract must be between persons concerning their private affairs, and each party must be a free bargaining agent.

The court held that exculpatory clauses releasing a party from negligence generally do not contravene public policy, but releases for intentional or reckless tortious conduct are prohibited. The court distinguished between Backporch's intentional misrepresentation claims (Count I, Count V, and Count VI, which were pleaded as "willing and knowing") and its negligent misrepresentation claim (Count II).

The court concluded that Provision 18.9.1 could not release claims for intentional tortious conduct because such releases are against public policy. However, the provision did not contravene public policy as applied to negligence claims. The court therefore held that Count II (negligent misrepresentation) was released pursuant to this provision, but Counts I, V, and VI (which alleged intentional conduct) were not released.

The court found that the provision explicitly mentioned fraud and misrepresentation, reflecting that the parties intended to limit remedies based on those claims. The court noted that Pennsylvania courts have upheld negligence releases executed before claims accrued, citing cases involving pre-injury releases in recreational contexts. By limiting the release's enforceability to negligence claims while invalidating it for intentional conduct, the court applied Pennsylvania's public policy against exculpatory clauses for intentional wrongdoing.

The Court's Analysis and Resolution of the Rule 9(b) Particularity Issue

The court assessed whether Backporch met Rule 9(b)'s heightened pleading standard for fraud claims. Rule 9(b) requires a plaintiff to identify "the who, what, when, where and how" of alleged fraud. The purpose of Rule 9(b) is to provide defendants with notice of the precise misconduct charged and prevent false or unsubstantiated charges.

The court found that Backporch sufficiently pleaded each element. The "who" was MDR, including specifically Zach Beutler, MDR's Director of Franchise Development. The "what" was selective financial data from franchises operating under different terms, false assertions regarding training, and failure to disclose the mandatory requirement to employ a roof qualifier. The "when" was early 2021, specifically on or about March 2, 2021. The "where" was the Workbook and the FDD. The "how" was providing false and misleading information to induce entry into the Franchise Agreements.

MDR challenged specific allegations regarding Items 6 and 11 of the FDD. MDR argued that FTC Rules only require disclosure of fees payable to the franchisor or its affiliates, not fees imposed for third parties. The court rejected this argument, noting that the applicable regulation requires disclosure of fees "that the franchisor or its affiliates impose or collect in whole or in part for a third party." Because Backporch alleged that MDR imposed the requirement to employ a roof qualifier, Backporch adequately alleged a fee imposed by MDR for a third party.

MDR also argued that allegations regarding Item 11 sounded in contract rather than fraud. The court rejected this argument, holding that a statement of intention "may constitute a fraudulent misrepresentation of fact" if the statement was false when uttered. Because Backporch alleged that MDR provided false statements regarding training to induce franchise investment, this could support a fraudulent misrepresentation claim.

The Court's Analysis and Resolution of the Justifiable Reliance Issue

MDR argued that integration clauses and no-reliance provisions prevented Backporch from establishing justifiable reliance. The court explained that while the parol evidence rule prevents using extrinsic evidence to alter contract terms, it does not prevent fraudulent inducement claims because such evidence proves pre-contractual misrepresentation rather than altering contract terms. However, fraud-insulating clauses such as no-reliance provisions extend the parol evidence rule, preventing parties from justifiably relying on representations they have superseded and disclaimed.

The court analyzed the integration clause in the Franchise Agreements, which stated that the Agreement contained the entire agreement between the parties and that there were no representations except those in the Agreement. Critically, the clause concluded: "Nothing in this Agreement or any related agreement is intended to disclaim the representations Franchisor made in the franchise disclosure document furnished to Franchisee."

The court held that this language expressly carved out representations made in the FDD from the integration clause's scope. While MDR described the provision as disclaiming reliance on representations outside the Franchise Agreements, the court found this characterization "directly contradicted by the plain language of the provision." The court concluded that the integration clause expressly did not disclaim representations made in the FDD.

However, the court found that the Workbook was not carved out from the integration clause. Because the integration clause provided that there were no other representations between the parties aside from the FDD, it "prevents the use of extrinsic evidence to vary the fraud-insulating term." Under Third Circuit precedent, without such evidence "it is virtually impossible to establish the justifiable-reliance element needed for a fraud claim." The court concluded that Backporch could not prove justifiable reliance based on the Workbook.

The Court's Analysis and Resolution of the Gist of the Action and Economic Loss Issues

MDR argued that the gist of the action doctrine and economic loss doctrine barred Count I because the claims arose from contractual duties and sought only economic damages. Under Pennsylvania law, the gist of the action doctrine bars purely contractual duties from serving as the basis for tort claims. The critical factor is "the nature of the duty alleged to have been breached." If the duty would not exist but for the contract, the claim sounds in contract; if the claim involves violation of a broader social duty, it sounds in tort.

The court held that "the mere existence of a contract between two parties does not, ipso facto, classify a claim by a contracting party for injury or loss suffered as the result of actions of the other party in performing the contract as one for breach of contract." The court emphasized that it must focus on the nature of the duty breached, not the label plaintiff assigns.

The court found Third Circuit precedent instructive. In that case, the Third Circuit held that "a precontractual duty not to deceive through misrepresentation or concealment exists independently of a later-created contract." The court reasoned that because the duty was grounded in one generally owed to another in society and not based on a contract, it was a tort duty rather than a contract duty.

The court applied this reasoning to Backporch's fraud claim. Because Backporch alleged that MDR misrepresented financial projections while the parties were negotiating the Franchise Agreements, and because at the time of the alleged misrepresentation the parties had not executed the Franchise Agreements, this fraud claim would exist with or without the subsequent contract. The court held that the claim was not barred under the gist of the action or economic loss doctrine.

The Court's Analysis and Resolution of the Breach of Contract Issue

The court addressed MDR's arguments regarding the breach of contract claim separately. Backporch alleged four breaches: failure to provide local SEO optimization during the first year of operations (Paragraph 3.6), failure to establish national advertising and brand promotion (Paragraph 3.7), failure to provide an operational call center (Paragraph 3.9), and failure to conduct market-appropriate advertising and promotion (Paragraph 12.5.2).

MDR argued that Paragraph 12.5.2 placed no contractual obligations on MDR and that the remaining allegations merely expressed dissatisfaction with performance rather than failure to perform. The court reviewed Paragraph 12.5.2 and found it placed obligations only on the franchisee, not the franchisor. The court concluded this provision could not serve as a basis for breach of contract by MDR.

However, the court rejected MDR's argument regarding the other alleged breaches. The court found that the counterclaim contained no allegations that MDR performed these obligations;

rather, the allegations asserted that MDR failed to do certain things it was contractually obligated to do. The court held that Backporch sufficiently stated a claim for breach of contract on three of the four alleged breaches.

Why the Court Accepted the Franchisee's Position and Rejected the Franchisor's

The court accepted Backporch's position on standing because the Assignment Agreement expressly transferred all rights from the Warners to Backporch and MDR consented to the transfer, leaving no dispute about the assignment's effectiveness. The court found that Pennsylvania law's assignment principles are broad enough to encompass tort remedies for fraudulent inducement, not merely contractual rights, and that MDR's argument to the contrary would allow franchisors to insulate themselves from pre-assignment fraud simply by requiring corporate assignment after signing.

On the general release issue, the court accepted Backporch's position because the release language was temporally limited to claims existing through the amendment dates and did not include the explicit forward-looking language — "future claims" or "unaccrued claims" — that Pennsylvania courts require to extinguish claims not yet in existence. The court also accepted Backporch's argument on the fraud-specific release because Pennsylvania public policy categorically bars enforcement of exculpatory clauses for intentional tortious conduct, regardless of how the provision is framed. MDR's framing of the provision as a remedy limitation rather than an exculpatory clause did not change this analysis.

On Rule 9(b), the court accepted Backporch's position because the counterclaim identified a specific MDR employee, a specific document, a specific date, and a specific mechanism of alleged deception — the selective presentation of financial data from grandfathered franchises not available to new franchisees — which satisfied the particularity requirements. The court rejected MDR's position on justifiable reliance with respect to the FDD because the integration clause contained an express carve-out for FDD representations, meaning Backporch could not be said to have disclaimed reliance on those representations. However, the court accepted MDR's position on the Workbook, finding that because it was not carved out from the integration clause, the fraud-insulating effect of the clause prevented Backporch from establishing reliance on representations in that document.

The court accepted Backporch's position on the gist of the action doctrine because the alleged fraud occurred during pre-contractual negotiations before the Franchise Agreements were executed, meaning the duty not to deceive existed independently of and prior to any contractual relationship. On breach of contract, the court accepted Backporch's position as to three of the four alleged breaches because the counterclaim alleged complete nonperformance of contractual obligations rather than mere dissatisfaction with the quality of performance.

Potential Significance for Franchisees and Franchisors

This decision may establish important precedents affecting franchise disclosure practices, release clause drafting, and consumer protection law applicability. For franchisees, the decision appears to confirm that corporate assignees of franchise agreements may be able to pursue fraud claims based on pre-assignment representations made to individual principals. This reasoning may prevent franchisors from insulating themselves from fraud liability by requiring individual franchisees to assign their interests to corporate entities shortly after signing franchise agreements.

The decision also seems to clarify that general release provisions may not automatically extinguish claims that have not yet accrued at the time of the release. Release provisions that do not explicitly reference future or unaccrued claims may be found unenforceable as to claims not yet in existence at the time of signing, and even provisions that do include such language may remain unenforceable as to claims for intentional tortious conduct.

For franchisors, the decision appears to underscore the importance of Item 19 financial performance representations in franchise disclosure documents. The court's holding that integration clauses carving out FDD representations preserve franchisee reliance on those representations may mean that franchisors who selectively present financial data from franchises operating under more favorable terms risk liability for misleading FDD disclosures. The decision also appears to suggest that franchisors who include fraud-specific release provisions should not assume those provisions will bar intentional misrepresentation claims, as such releases may be unenforceable against public policy regardless of how they are drafted.

The decision's dismissal of the Tennessee Consumer Protection Act claim without prejudice and the Pennsylvania UTPCPL claim with prejudice may illustrate that franchisees pursuing statutory consumer protection claims must carefully assess whether those statutes apply to their specific circumstances, including whether the alleged conduct was sufficiently intrastate in character and whether the franchisee qualifies as a consumer under the applicable statute's definition.

Comparison to Other Jurisdictions

The court's standing analysis seems to align with general principles of assignment law recognized across jurisdictions. Most states follow the principle that assignees stand in the shoes of assignors and acquire all rights and remedies the assignor possessed. However, some jurisdictions impose greater restrictions on assignment of personal injury claims or claims for fraud, treating such claims as non-assignable absent explicit contractual language permitting assignment.

The court's treatment of release provisions appears to reflect Pennsylvania's approach, which requires clear and explicit language to release unaccrued claims. Other jurisdictions vary significantly in their treatment of releases for unaccrued claims. Some states, particularly California and New York, may construe releases against the releasing party and require explicit reference to future or unaccrued claims. Other states take a more lenient approach, enforcing releases of "unknown claims" to bar later-discovered claims even if those claims had not accrued at the time of the release. A minority of jurisdictions provide even stronger protection for franchisees, treating releases executed as part of a franchise agreement as presumptively suspect and requiring affirmative evidence that the releasing party understood the scope of what was being waived.

Pennsylvania's public policy against releases for intentional tortious conduct seems widely shared but not universal. Most states refuse to enforce exculpatory clauses that release liability for fraud, intentional misconduct, or gross negligence. However, the scope of this prohibition varies. Some states extend the prohibition to reckless conduct, while others limit it to intentional torts. The distinction between intentional and negligent misrepresentation that the court drew can be seen as consistent with Pennsylvania precedent but may not apply in states that treat all fraud releases as void regardless of the state of mind alleged.

The court's application of the gist of the action doctrine appears to follow Third Circuit precedent but differs from approaches in other circuits. Some jurisdictions apply a more restrictive version of the economic loss doctrine that bars tort claims arising from contractual relationships even when the duty breached existed independently. Other jurisdictions reject the economic loss doctrine's application to fraud claims altogether, reasoning that fraud in the inducement involves duties that exist independently of any contract.

Law and Economics Perspective

From a law and economics perspective, this decision may promote efficient disclosure practices and reduce information asymmetry in franchise transactions. By preserving fraud claims for misleading financial performance representations, the court may have created incentives for franchisors to provide accurate and complete disclosure of franchise economics. This could reduce the likelihood that prospective franchisees will make inefficient investment decisions based on incomplete or misleading information. The ruling also may reduce transaction costs by eliminating the need for franchisees to conduct extensive due diligence to verify financial representations that franchisors are already obligated to disclose accurately.

The decision's treatment of release provisions may promote efficient contracting by requiring clear specification of the rights being released. Enforcing releases only when they explicitly reference future or unaccrued claims can reduce ambiguity and can ensure that parties understand the scope of rights they are relinquishing. This approach can minimize disputes over release interpretation and allows parties to price the value of releases more accurately during contract negotiations. Parties who wish to release unaccrued claims can do so by using explicit language, while parties who do not intend such a broad release may be protected from inadvertent waiver.

The prohibition on releases for intentional tortious conduct may serve important deterrence functions. If franchisors could contractually eliminate liability for intentional fraud, they would face reduced incentives to invest in accurate disclosure systems and compliance monitoring. By maintaining liability for intentional misrepresentation, the law may create incentives for franchisors to implement internal controls that prevent fraudulent sales practices. This may promote long-term efficiency in franchise markets by reducing the incidence of fraud and protecting the reputational capital of legitimate franchisors.

Final Disposition

The United States District Court for the Eastern District of Pennsylvania granted MDR United's motion to dismiss in part and denied it in part. The court dismissed Count II (negligent misrepresentation) with prejudice as released under the fraud-specific release provision, Count IV (breach of implied covenant of good faith and fair dealing) with prejudice under Pennsylvania law, Count V (Tennessee Consumer Protection Act) without prejudice for failure to allege predominantly intrastate conduct, and Count VI (Pennsylvania UTPCPL) with prejudice because the franchisee's purchase did not qualify as a consumer purchase under the statute. The court denied the motion as to Count I (fraudulent misrepresentation) and Count III (breach of contract), holding that Backporch had standing as assignee to assert pre-assignment fraud claims, that the general releases did not extinguish unaccrued claims, that the fraud-specific release could not bar intentional misrepresentation claims without violating public policy, and that Backporch adequately pleaded both fraud and breach of contract.