

# Issues to Consider in Bringing or Defending Franchise and Dealer Termination Litigation

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Why should the antitrust lawyer be concerned with franchise and dealer termination issues at all? There are at least two reasons: one, historical, and the other, practical.

Historically, as one New York district court stated, “At one time, the battle between franchisors and franchisees was waged primarily in the antitrust arena.”<sup>1</sup> In the late 1960s, before the existence of relationship or disclosure laws, franchisees used the courts to seek shelter from those franchise practices they believed to be harmful. In addition to common law remedies, franchisees and dealers often sought protection by using antitrust laws.<sup>2</sup> Aggrieved dealers or franchisees sometimes claimed that a combination of manufacturers, distributors, and others conspired to sell to dealers at discriminatory prices, driving the aggrieved dealers out of the open competitive market.<sup>3</sup> Arguments were later made that certain franchisor/franchisee or dealer/supplier relationships were anticompetitive because the right to use the franchisor’s or dealer’s trade name and service marks was tied to purchasing sanctioned supplies from suggested vendors.<sup>4</sup>

With the evolution of legislation and statutes designed both to protect franchisees and dealers from “unholy” actions by franchisors and suppliers and franchise systems from renegade franchisees and dealers, however, the battlefield and rules of combat changed. Nonetheless, it was from this historical wellspring that the attempt to reconcile competing policies (protection of franchisees’ rights v. the franchisor’s freedom to contract) appears to have evolved.<sup>5</sup>

Practically, it is still crucial for the franchise or dealer litigator to have an antitrust lawyer “in the wings” to help figure out those thorny cases that primarily involve antitrust claims or that at least involve some type of antitrust analysis on discrete claims. For example, in the past few years, we have seen cases in which dealers have brought a class action alleging misuse of market power to control the product allocation process, allegedly to coerce dealers into purchasing unwanted products, requiring a tying analysis.<sup>6</sup> We have also seen an alleged price-fixing case involving claims by cigarette wholesalers against several manufacturers, alleging that the manufacturers conspired to fix cigarette prices at unnaturally high levels in violation of the Sherman Act and the Clayton Act.<sup>7</sup> And the Robinson-Patman Act remains alive and well in dealership and franchise

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<sup>1</sup> Bronx Auto Mall, Inc. v. Am. Honda Motor Co., 934 F. Supp. 596, 608 (S.D.N.Y. 1996), *aff’d per curiam*, 113 F.3d 329 (2d Cir. 1997) (citing Continental T.V., Inc. v. GTE Sylvania Inc., 433 U.S. 36 (1977) and United States v. General Motors Corp., 384 U.S. 127 (1966)); ABA SECTION OF ANTITRUST LAW, THE FRANCHISE AND DEALERSHIP TERMINATION HANDBOOK 2–3 (2004) [HANDBOOK].

<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., Klor’s Inc. v. Broadway-Hale Stores, Inc., 359 U.S. 207 (1959); HANDBOOK, *supra* note 1, at 2–3.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> George Lussier Enter., Inc., v. Subaru of New England, Inc., 286 F. Supp. 2d (D.N.H. 2003).

<sup>7</sup> Williamson Oil Co. v. Philip Morris USA, 346 F.3d 1287 (11th Cir. 2003).

litigation.<sup>8</sup> Thus, while it is important for the franchise litigator to understand when antitrust issues arise, it is equally important for the antitrust litigator to have an understanding of franchise and dealer issues in order to assist when the need arises, as the antitrust claims never seem to appear in a vacuum.

This article briefly addresses some of the main practical issues to consider in prosecuting or defending against franchise and dealer litigation, including: making sure the termination is proper; the benefits of choice-of-forum clauses and choice-of-law provisions; the reach of anti-waiver statutes; and the remedies available.

### Make Sure Termination Is Proper

Has the franchisee or dealer been properly terminated? An initial consideration in most franchise and dealer disputes, from both the plaintiff and defendant perspective, is whether the termination of the franchisor-franchisee or supplier-dealer relationship was proper. While termination is typically governed by the franchise or dealership agreement, it is important to remember that many states have general franchise and relationship laws, and many of those contain specific requirements for termination. A chart highlighting states that have franchise relationship laws and where termination may be governed by statute and not the franchise agreement is attached as Appendix A. Key provisions of general franchise laws, and the requirements for termination under these laws and under various dealership statutes, are included in *The Franchise and Dealership Termination Handbook*.<sup>9</sup> It is imperative for the litigant and attorney to review these basics at the outset of any franchise or dealer termination litigation.

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### Enforceability of Forum-Selection Clauses

Can the franchisor enforce its forum-selection clause? Can the franchisee get around it? While the Supreme Court has clearly embraced forum-selection clauses, it is difficult today to predict whether a court will enforce a particular forum-selection clause. In *M/S Bremen v. Zapata Off-Shore Co.*,<sup>10</sup> the Supreme Court stated that forum-selection clauses are valid and enforceable absent any fraud, undue influence, or uneven bargaining power.<sup>11</sup> After *Bremen* was decided, the Supreme Court appeared to take a small step back from the enforcement of forum-selection clauses in *Stewart Organization Inc. v. Ricoh Corp.*<sup>12</sup> In *Stewart*, the Supreme Court stated that a forum-selection clause is only one factor to consider in deciding whether to grant a 28 U.S.C. § 1404(a) transfer, which allows a district court to transfer any civil action to another district or division where it might have been brought, based on the convenience of parties and witnesses, and in the interest of justice.<sup>13</sup> The Court stated that district courts must also consider the bargaining power of the parties, forum convenience, and fairness of transfer.<sup>14</sup>

<sup>8</sup> *Cleveland v. Viacom, Inc.*, No. 02-50811, 2003 WL 22014776 (5th Cir. Aug. 25, 2003); *Mikeron, Inc. v. Exxon Co., U.S.A.*, 264 F. Supp. 2d 268 (D. Md. 2003); *Maddaloni Jewelers, Inc. v. Rolex Watch U.S.A., Inc.*, No. 02 Civ. 6438 SAS, 2003 WL 21507529 (S.D.N.Y. June 30, 2003).

<sup>9</sup> HANDBOOK, *supra* note 1, at Appendix F.

<sup>10</sup> 407 U.S. 1 (1972).

<sup>11</sup> *Id.* at 13–14.

<sup>12</sup> 487 U.S. 22 (1988).

<sup>13</sup> *Id.* at 23.

<sup>14</sup> *Id.*

In *Schwartz v. Colorall Technologies, Inc.*, a California court held that a forum-selection clause was invalid for lack of mutual assent.<sup>15</sup> The court reasoned that the clause was clearly invalid under the California Franchise Relations Act and, therefore, the franchisee had no reasonable expectation that it had agreed to a forum other than California. The court added that just because the forum-selection clause was invalid did not mean that the arbitration and mediation clauses were likewise unenforceable. Thus, arbitration and mediation clauses might be a means for franchisors to designate a forum.

Although there are a number of states that have not enacted anti-waiver provisions, it is still uncertain in those states as to whether a court will enforce a contractual forum-selection clause. A prime example is the New Jersey Supreme Court's decision in *Kubis N. Perszyk Associates, Inc. v. Sun Micro Systems, Inc.*<sup>16</sup> The contract contained both a choice of forum and choice-of-law provision as follows: "Any action related to this agreement will be governed by California law, excluding choice-of-law rules, and will be brought exclusively in the United States District Court for Northern California or the California Superior Court of the County of Santa Clara." In *Kubis*, the New Jersey Supreme Court refused to enforce the forum-selection clause even in the absence of a state anti-waiver statute because the court reasoned that the forum-selection clause was contrary to public policy.

A state supreme court in *In re GNC Franchising* refused to enforce a forum-selection clause in a franchise agreement by denying a franchisor's petition for writ of mandamus.<sup>17</sup> The court rejected the franchisor's argument that forum-selection clauses were beneficial to both franchisor and franchisee because it allowed them to make more intelligent and informed litigation decisions. Recently, however, in an insurance coverage dispute, the same state supreme court held that subjecting a party to trial in a forum other than that agreed upon in the forum-selection clause in the contract between the parties "is clear harassment."<sup>18</sup>

In sum, enforcement of forum-selection clauses remains a largely unpredictable area of the law. As such, other alternatives, such as arbitration clauses, should be considered.

### Choice of Law—The Franchisor's Home State

Who gains from a choice-of-law provision? Franchisors typically prefer choice-of-law provisions because franchisors normally deal with franchisees located throughout the country. It sometimes works to a franchisee's benefit, however, to use the law chosen by the franchisor because it may be more beneficial than the law of the jurisdiction in which the franchisee resides. Further, many states have attempted to level the playing field between franchisors and franchisees through legislation. Consequently, courts may be faced with a dilemma when deciding whether to enforce the terms of the agreement to which the franchisee purportedly agreed or whether to grant the protection that legislators intended to extend to franchisees.

In resolving the dilemma of which state's laws should govern, courts have relied heavily upon the *Restatement (Second) of Conflict of Laws* § 187 (2003) for guidance. Pursuant to Section 187(1), a choice-of-law provision will be enforced "if the particular issue is one which the parties could have resolved by the explicit provision in their agreement directed to that issue." Cases typ-

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<sup>15</sup> Bus. Franchise Guide (CCH) ¶ 12,609 (D.C. Cal. Feb. 22, 2000).

<sup>16</sup> 680 A.2d 618 (N.J. 1996).

<sup>17</sup> 22 S.W.3d 929 (Tex. 2000).

<sup>18</sup> *In re Allu Ins. Co.*, 148 S.W.3d 109 (Tex. 2004).

ically are not resolved on these grounds, however, because the parties lack the contractual capacity to avoid the applicability of the protective provisions of the franchisee's state law.

When the issue is not one the parties could have resolved by the explicit provisions in their agreement,<sup>19</sup> the choice-of-law provision will nonetheless be enforced under Section 187(2) unless, (1) "the chosen state has no substantial relationship to the parties or the transaction and there is no other reasonable basis for the parties' choice," or (2) "application of the law of the chosen state would be contrary to a fundamental policy of a state which has a materially greater interest than the chosen state" or that state has the most significant relationship.<sup>20</sup> In other words, Section 187(2) provides that choice-of-law provisions should be enforced when the chosen state has a substantial relationship to the parties; there is an absence of misrepresentation, duress, undue influence, or mistake; and the chosen state's law is not contrary to the fundamental policy of the franchisee's state.

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Section 187(2) attempts to give parties wide discretion in shaping the terms of their contracts.<sup>21</sup> For example, under Virginia law, using a test that is fairly typical in most states, choice-of-law provisions of an agreement are enforced where (1) the choice-of-law provision was not obtained by unfair means; (2) the state law selected has a reasonable relation to the contract or the parties have a reasonable basis for choosing a particular state's law; and (3) the law of the state chosen is not contrary to the public policy of the state whose law would otherwise govern.<sup>22</sup>

In *Brenco Enterprises, Inc. v. Takeout Taxi Franchising Systems, Inc.*,<sup>23</sup> the choice-of-law provision in the franchise agreement assisted the franchisor in convincing the court to dismiss many of the franchisees' claims. The particular dispute involved claims by several franchisees against the franchisor brought in Virginia state court. The franchise agreements had a Virginia choice-of-law clause. The franchisees asserted that the franchisor had violated the North Carolina, Tennessee, and California deceptive trade practices acts and the California franchise statutes, among other claims.

While the franchisees asserted that the choice of Virginia law applied only to the construction and interpretation of the franchise agreements, the court disagreed. The court found that the function of a choice-of-law provision was to provide the parties with a degree of certainty as to the respective rights and duties that they were creating by the agreement. The existence and scope of these rights and obligations, however, were matters determined through the "interpretation and construction" of the contents of the agreement. The agreements at issue provided that they were the entire agreement between the parties, indicating an exclusion of other rights and obligations beyond the four corners of the agreement. Further, they also referenced the laws of Virginia and the United States Trademark Act, while pointedly omitting any reference to the laws of any other jurisdiction as establishing other obligations or rights. For these reasons, and others, the court found the agreements specifically excluded any action based exclusively upon breaches or torts under laws in foreign jurisdictions, and the court sustained the demurrers as to those claims asserted under the laws of states other than Virginia.

<sup>19</sup> "Examples of such questions are those involving capacity, formalities and substantial validity." RESTATEMENT (SECOND) OF CONFLICT OF LAWS § 187 cmt. d (2003).

<sup>20</sup> See *LaGuardia Assocs. v. Holiday Hospitality Franchising, Inc.*, 92 F. Supp. 2d 119, 128 (E.D.N.Y. 2000); *America's Favorite Chicken Co. v. Cajun Enters., Inc.*, 130 F.3d 180, 182 (5th Cir. 1997).

<sup>21</sup> See RESTATEMENT, *supra* note 19, at § 187, cmt. e.

<sup>22</sup> No. 177164, 2003 WL 21659422 (Va. Cir. Ct. May 23, 2003) (the author was one of the counsel of record in this case.)

<sup>23</sup> *Id.*

While most states have adopted provisions similar to the *Restatement's* significant relationship test, application of the test has proven to be less than predictable. Some courts have found that, even in the presence of an anti-waiver provision, parties may still contract around that state's substantive law via a choice-of-law provision in the contract.<sup>24</sup> Other courts have held that choice-of-law provisions are unenforceable because they are contrary to fundamental public policy when they attempt to opt out of a state's law when that state has specifically enacted anti-waiver provisions.<sup>25</sup>

Franchisees sometimes attempt to avoid the choice-of-law provision by alleging a misrepresentation, mistake, or fraud in the execution of the franchise agreement. If fraud or misrepresentation is found by a court, then the choice-of-law provision is unenforceable.<sup>26</sup>

While difficult to accomplish, the ability to designate which state's law will apply in the event of a dispute can be very significant.

### Anti-Waiver Provisions for Forum-Selection Clauses and Choice-of-law Clauses

A discussion of forum-selection clauses and choice-of-law clauses must necessarily include a look at anti-waiver provisions.

**Forum-Selection Clauses.** A line of lower court opinions and state legislation has upended the enforceability of many forum-selection clauses. In particular, a number of states have enacted legislation prohibiting the enforcement of forum-selection clauses.<sup>27</sup> California's anti-waiver statute is extremely broad. It not only allows franchisees to file suit in California for all claims under California franchise law, but it allows them to file suit in California even when the claims complained of are not covered by California law.<sup>28</sup> Thus, claims under state franchise law can be brought in California, as can any claims brought by a California franchisee.<sup>29</sup>

The Ninth Circuit invalidated a forum-selection clause in a franchise agreement. In *Jones v. GNC Franchising, Inc.*,<sup>30</sup> the choice of forum provision selected Pennsylvania; the franchisee, however, filed suit in California. The franchisor filed a motion to dismiss or transfer venue. The

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<sup>24</sup> *Tele-Save Merch. Co. v. Consumers Distrib. Co.*, 814 F.2d 1120, 1123 (6th Cir. 1987) (it was not enough that the state's statute had a policy to protect franchisee; central inquiry is whether the choice of law "caused a substantial erosion of the quality of protection" the statute would have otherwise provided); *Modern Computer Sys.*, 871 F.2d 734, 735 (8th Cir. 1989) (overruled by statute for all agreements entered into after 1989). *See also* *Cottman Transmission Sys., Inc. v. Melody*, 869 F. Supp. 1180, 1186 (E.D. Pa. 1994) (enforcement of choice-of-law provision would result in no erosion of the quality of protection offered under the state law of the franchisee's state).

<sup>25</sup> *See, e.g., Wright-Moore Corp. v. Ricoh Corp.*, 908 F.2d 128, 129 (7th Cir. 1990) (only connection to provisions of law was that it was franchisor's state of incorporation). Some jurisdictions have seemingly taken contradictory positions. Note that both the Sixth and Eighth Circuits have waffled on decisions regarding choice of law. The Sixth Circuit has stated that the state's franchise law at issue did represent a fundamental policy, but it still enforced the choice-of-law provision under the rationale that the application of the provision did not substantially erode the protections under that state's law. *Banek Inc. v. Yogurt Ventures U.S.A., Inc.*, 6 F.3d 357 (6th Cir. 1993).

<sup>26</sup> RESTATEMENT, *supra* note 19, § 187.

<sup>27</sup> *See* CAL. BUS. & PROF. CODE § 20040.5 (West 2004) ("A provision in a franchise agreement restricting venue to a forum outside this state is void with respect to any claim arising under or relating to a franchise agreement involving a franchise business operating within this state."); IND. CODE ANN. § 24-5-8-8 (West 2004) ("Any waiver by an investor of the provisions of this chapter [business opportunity transactions] is deemed contrary to public policy and is void and unenforceable."); IOWA CODE § 523H.3(1) (West 2003) (suit may be brought wherever jurisdiction of the parties in the subject matter exists despite a provision in the agreement limiting the forum).

<sup>28</sup> *See* CAL. BUS. & PROF. CODE § 20040.5 (West 2004).

<sup>29</sup> *See id.*

<sup>30</sup> 211 F.3d 495 (9th Cir. 2000).

court held that the forum-selection clause was contrary to California's fundamental policy illustrated in the California statute, which voids all choice of forum provisions selecting a forum other than California.<sup>31</sup>

Michigan has enacted a provision that invalidates a forum-selection clause in any franchise agreement which requires litigation or arbitration in any other state.<sup>32</sup> Similarly, under the Wisconsin Fair Dealership law, a franchisee may bring a cause of action for violation of the statute in any competent jurisdiction.<sup>33</sup> Such provisions are also per se invalid in North Carolina under a general statute that invalidates all contractual provisions, whether in franchise agreements or otherwise, which require that disputes be litigated or arbitrated outside North Carolina.<sup>34</sup> While the Illinois Franchise Disclosure Act invalidates any provision that requires litigation outside Illinois, contractual provisions that require arbitration outside of Illinois are valid and enforceable.<sup>35</sup>

**Choice of Law.** Many states have enacted anti-waiver provisions that prevent franchisors from escaping the applicability of the franchise laws of the franchisee's home state.<sup>36</sup> Many of these states take a paternalistic approach, in that the statutes void all contractual choice-of-law provisions even where there is no overreaching. Most of these states justify the anti-waiver provisions by emphasizing that negotiations for business opportunities are often marked by unequal bargaining power between the franchisor and franchisee.

## Remedies

What remedies are available in franchise and dealer litigation? Remedies available for common franchise-related and dealer-related claims are typical—breach of contract remedies, fraud and misrepresentation remedies, statutory remedies, and certain equitable remedies.<sup>37</sup> Contract remedies include expectation damages, reliance damages, and restitution.<sup>38</sup> Fraud and misrepresentation damages include benefit of the bargain ("lost profits") type damages, rescission remedies, and damages that intend to restore the status quo ("out-of-pocket damages").<sup>39</sup> The most unique remedies sought in franchise disputes, however, are Lanham Act damages for trademark infringement claims and liquidated damages for breach of contract claims, particularly in hotel litigation.

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<sup>31</sup> See CAL. BUS. & PROF. CODE § 20040.5 (West 2004).

<sup>32</sup> MICH. COMP. LAWS § 445.1527(f) (West 2004).

<sup>33</sup> WIS. STAT. ANN. § 135.06 (West 2003).

<sup>34</sup> N.C. GEN. STAT. § 22B-3 (2003).

<sup>35</sup> 815 ILL. COMP. STAT. 705/4 (West 2004); see also IND. CODE ANN. § 23-2-2.7-1(5) (2000).

<sup>36</sup> See, e.g., ARK. CODE ANN. § 4-72-206(1) (Michie 2003); CAL. BUS. & PROF. CODE § 20040.5 (West 2004); 815 ILL. COMP. STAT. § 705/4 (West 2000); IND. CODE ANN. § 23-2-2.7-1(5) (West 2004); IOWA CODE § 523H.3 (West 2003); MICH. STAT. ANN. § 19.854(27)(b) (1999); MINN. STAT. § 80C.21 (West 2004); NEB. REV. STAT. § 87-406(1) (Michie 2003); N.H. REV. STAT. ANN. § 358-E:1-6 (2003); S.D. CODIFIED LAWS § 37-25A-54 (Michie 2003).

<sup>37</sup> Troy S. Bader, Deborah S. Coldwell & Patrick J. Carter, *Remedies: Damages, Injunctive Relief and Rescission*, ABA 22nd Annual Forum on Franchising (Oct. 13–16, 1999); Ellen Lokker & Joseph Schumacher, *The Ultimate Issue: Judicial Remedies*, ABA 20th Annual Forum on Franchising (Oct. 22–24, 1997).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

## Damages Under the Lanham Act

Under the Lanham Act, a plaintiff who prevails on a claim of trademark infringement is entitled, subject to the principles of equity, to recover, (1) defendant's profits; (2) any damages sustained by the plaintiff; and (3) the costs of the action.<sup>40</sup> These remedies are nonexclusive, and a plaintiff may recover all three simultaneously. A plaintiff cannot recover punitive damages, however. Instead, the court may enter judgment for any sum above the amount found as actual damages, not exceeding three times such amount.<sup>41</sup> Additionally, if the court finds that the amount of recovery based on profits is either inadequate or excessive, the court may enter judgment for a sum the court deems just.<sup>42</sup> Also, in exceptional cases, the court may award reasonable attorney's fees to the prevailing party.<sup>43</sup> These additional sums constitute compensation and not a penalty.<sup>44</sup> Because the Lanham Act does not provide for additional damages to penalize for trademark infringement, if a plaintiff intends to recover punitive damages, the recovery must be based on his common law claims.

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**Liquidated Damages Provisions.** Liquidated damages provisions are damages specified in a contract as a remedy in the event the contract is breached. When utilized properly, these provisions are useful in franchise agreements, where it is often difficult to ascertain in the event of a breach the actual damages a party would sustain, and are often used in hotel litigation. These provisions allow the parties to enter the agreement with a better understanding of their obligations in the event of a breach, rather than allowing these obligations to be fixed in less predictable judicial or arbitration proceeding.

While liquidated damages provisions have many benefits, courts will not enforce these provisions if the amount designated for damages is tantamount to imposing a penalty on the breaching party. A term fixing unreasonably large liquidated damages as a penalty is unenforceable on the grounds of public policy.<sup>45</sup> The general rule is that "[l]iquidated damages must compensate for loss rather than punish for breach."<sup>46</sup> To make this determination, courts typically consider two factors: (1) the damages must be reasonable in light of the anticipated or actual loss caused by the breach; and (2) the difficulties of proving the actual loss.<sup>47</sup> Typically, the party seeking to avoid the liquidated damages clause bears the burden of proving the clause does not meet these factors.<sup>48</sup>

For example, in *Ramada Franchise Systems v. Jacobcart*,<sup>49</sup> a Texas district court, applying New Jersey law, upheld a liquidated damages provision in a hotel license agreement that required the licensee to pay the licensor \$200,000 if the licensee breached or prematurely terminated the agreement. Under applicable New Jersey law, liquidated damages provisions are upheld when

<sup>40</sup> 15 U.S.C. § 1117(a).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> See RESTATEMENT (SECOND) OF CONTRACTS § 356 (2003).

<sup>46</sup> See *Space Master Int'l, Inc. v. City of Worcester*, 940 F.2d 16, 18 (1st Cir. 1991).

<sup>47</sup> See RESTATEMENT (SECOND) OF CONTRACTS, *supra* note 45, § 356.

<sup>48</sup> *Zidell, Inc. v. Pacific N. Marine Corp.*, 744 F. Supp. 982, 987 (D. Or. 1990).

<sup>49</sup> BUS. FRANCHISE GUIDE (CCH) ¶ 12,609 (N.D. Tex. Feb. 21, 2003). (The author was counsel of record for the franchisor in this case.)

the set amount of damages was a reasonable forecast of just compensation for the harm caused by the breach and when that harm was very difficult to measure. The court held that the provision was reasonable and enforceable for several reasons. First, damages from breach for early termination of a hotel license agreement were difficult to estimate when the agreement was drafted, due to fluctuations in the travel industry. Second, the agreement covered a fifteen-year period, and it was difficult to predict the franchisee's income that far into the future. Third, New Jersey law assumed that the liquidated damages provision was enforceable, and the franchisee did not meet its burden of showing that the provision was unreasonable and should not be enforced.

### **Conclusion**

Most franchise or supplier litigation involves termination issues: either the franchisee or dealer wants to exit or stay in the system, while the franchisor or supplier wants the opposite. Thus, proper termination is important and, in fact, may be required to enforce other rights under the parties' agreement. Understanding the nuts and bolts of some practical aspects of litigation involving franchises and dealerships is essential before undertaking prosecution or defense of a franchise or dealer termination action. ●

## Appendix A

### State Relationship Laws

*States where the criteria for termination is dictated by statute and not the franchise agreement*

