

**E-ALERT: MUSTARD FRANCHISE CORPORATION V. YEK, INC.**

A recent arbitration proceeding litigated by *MulcahyReeves* demonstrates the value of proactive arbitration in helping a franchisor terminate a difficult franchisee.

As a result of arbitration, the delicatessen franchisor was granted the right to terminate the franchisee's franchise agreement and to obtain possession of the franchisee's restaurant.

-----

Faced with problems from a difficult franchisee, delicatessen franchisor Mustard Franchise Corp. approached *MulcahyReeves* for advice. *MulcahyReeves* immediately initiated an arbitration proceeding with the American Arbitration Association to allow Mustard to terminate the franchisee. Not unexpectedly, the franchisee filed counterclaims alleging fraud and violations of the franchise agreement by Mustard. After a nine-day arbitration in Los Angeles, the arbitrator ruled (1) that Mustard was entitled to terminate the franchisee, and (2) that the franchisee's claims were without merit.

The firm's work was not over, however. Pursuant to the franchise agreement, Mustard was entitled to purchase the franchisee's business, as well as immediate possession of the franchisee's delicatessen, to operate it pending finalization of the purchase. When the franchisee refused to turn over possession of the restaurant, and indeed attempted to "re-brand" it, Mustard again looked to *MulcahyReeves* for help. The firm immediately filed an action in Orange County Superior Court seeking a TRO and Preliminary Injunction. Within a day, the Court stopped the attempted re-branding, and, only two weeks after the filing of the action, the Court ordered that a final judgment be entered in favor of Mustard which not only (1) ordered the franchisee to turn over possession of the restaurant, but also (2) confirmed the arbitrator's award, turning it into a court judgment.

When the franchisor still refused to turn over possession, *MulcahyReeves* quickly obtained a writ of execution, after which (with the assistance of the Orange County Sheriff's Department) Mustard gained possession of the restaurant in short order.