

E-ALERT: GOLD, ET AL. V. MELT FRANCHISING, LLC, ET AL.

MulcahyReeves obtains for franchisor an early dismissal of nationwide class action suit filed by fifteen disgruntled franchisees located throughout the country.

The Plaintiffs in *Gold, et al. v. Melt Franchising, LLC, et al.* (Los Angeles County Superior Court Case No. BC377783) were seven different franchisees of Melt Franchising located in four different states. Their complaint against the Defendants alleged, among other things, that the franchisor defrauded franchisees and violated state franchise statutes.

Seeking an early dismissal of the case, Mulcahy Reeves filed a Demurrer on behalf of the franchisor arguing that (1) the class action waiver in the franchise agreements precluded a class claim, and (2) even if the waiver is unenforceable, the claims lacked unity necessary to support a class action.

The Plaintiffs argued in opposition that the class action waiver was unconscionable, consequently unenforceable. The Court sustained the Demurrer filed by Mulcahy Reeves *without* leave to amend, thus putting an end to the purported class action. The Court not only found the class action waiver enforceable under the most recent test set forth in *Gentry v. Superior Court* (42 Cal.4th 443 (2007)), but also noted that, as argued by Mulcahy Reeves, Plaintiffs' nationwide class claims failed due to a lack of unity of interest as required by California Code of Civil Procedure § 387. The Court also awarded Defendants their costs in the amount of \$6,130.00.

“Obviously, the client was very happy,” stated James M. Mulcahy, managing partner at Mulcahy Reeves. “Nationwide class action claims like this can have a devastating economic impact on a business – regardless of the legitimacy of the claims. To knock out these claims at such an early stage and prior to conducting expensive discovery was critical, and we’re all very pleased with the results.” The Plaintiffs have filed an appeal.