Franchisor Disputes-Case Study

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A franchise relationship like a marriage ending in divorce can be messy and often entails litigation. Frequent disputes include franchise fees, promissory notes or development loans, and liquidated damages. Usually it's a two-way street where the franchisee has claims against the franchisor, as well as defenses to a franchisor's allegations.

The facts of a recent case are instructive. After terminating the franchisee, a franchisor sued for breach of the franchise agreement, unpaid franchise fees, unpaid promissory notes, and liquidated damages. The franchisee had already paid many of the franchise fees and loans in question. Upon analysis we determined that many of the monies sought were already paid, beyond the statute of limitations for recovery, or requested for time periods after de- identification by the franchisee.

Rather that simply pursuing litigation, we privately mediated the matter with opposing counsel. This tactic necessitated an extensive accounting, and the development of a legal analysis factually based that demonstrated legitimate questions regarding the allegations. By so doing we avoided substantial discovery and minimized the motion practice in the case. The case resulted in a settlement hundreds of thousands of dollars lower than the initial request. in addition to a substantially decreased legal expense then if the case had been fully litigated.