

# \$6,546,100 ARBITRATION AWARD!



*Arbitration Panel denies franchisor's claims for \$5,425,000 and awards franchisees \$1,121,100. Total value of award to prevailing party: \$6,546,100*

**Gary Ichter** was lead counsel in this arbitrated franchise dispute, involving a child care franchisor and five franchisee businesses and their owners. The franchisees had terminated their relationship with the franchisor and its affiliate, alleging that they had been fraudulently induced to enter into the relationship. The franchisees sued, and the franchisor moved to compel arbitration. In the arbitration, the franchisor sought to recover \$5,425,000 against the franchisees, consisting of nearly \$1 million due under certain promissory notes and \$4 million in future franchise fees. The franchisees counterclaimed in the arbitration seeking to rescind

for fraud and seeking to recover damages. Although the FTC Act, which regulates disclosures that must be made in connection with the sale of a franchise, does not provide for a private cause of action for failure to comply with disclosure requirements, the franchisees asserted a breach of duty claim under OCGA §51-1-6 for failure to comply with the terms of the Act. Section 51-1-6 provides that if someone owes a duty to another which is breached and causes injury, a claim will lie under Georgia law. This creative and novel approach effectively incorporated the provisions of the FTC Act into Georgia law by way of the statute. The arbitration panel denied

the franchisor's motion for summary judgment, and after a two week hearing, issued an award denying the franchisor's claims, rescinding the various agreements between the parties, and awarding the franchisees damages in the amount of \$1,121,100, including attorneys' fees.

Ichter Thomas is a litigation firm, focusing on business disputes, including disputes involving franchise and distribution relationships, lending and banking relationships, employment relationships and discrimination, sports and entertainment, sales and collections, intellectual property, and construction.



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