Enforcing System Standards—A Franchisor’s Prerogative?

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Overview of the Program

• Franchisee enforcement of system standards?
• Selective enforcement or non-enforcement of system standards
• Special issues with selective enforcement of covenants not to compete
• Best practices: drafting, enforcement and working with franchisee associations
Can a franchisee compel the franchisor to enforce system standards against fellow franchisee?

Has Wings n’ Stuff waived enforcement rights? What about modification and estoppel?

Are there state relationship law issues here?
Waiver, Modification and Estoppel – oh my!
State Relationship Laws with “Good Cause” Requirements

- Arkansas
- California
- Connecticut
- Delaware
- Hawaii
- Illinois
- Indiana
- Iowa
- Michigan

- Minnesota
- Mississippi
- Missouri
- Nebraska
- New Jersey
- Virginia
- Washington
- Wisconsin
Best Practices

Best Practices

Learn from the mistakes of others!
WHAT IS THE KEY TO SUCCESS?

CONSISTENCY
Franchise Agreement Provisions

2. Anti-Third Party Beneficiary Clauses
4. System Modification Clauses
5. The Manual—incorporate it by reference?
Compliance Program

• Consider “New Day” Letter if launching (or re-launching) compliance program after period of non-enforcement.

• Check, Coach, Check, and Enforce.

• Clear Documentation is Key.

• Be Consistent!
Working with Franchisee Associations

- Can franchisee associations be a potential ally to franchisors?
- How can franchisee associations and franchisors improve their relationship?
THANK YOU!

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