

Franchise Case Dismissal Featured in Texas Lawyer

By Deborah S. Coldwell | July 20, 2017

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A Haynes Boone team won the complete dismissal of a breach of contract and fraud suit against Holiday Hospitality Franchising stemming from the company's decision not to renew the operating license for a Houston Holiday Inn.

The hotel franchisee sued Holiday Hospitality (which licenses most InterContinental Hotels Group brands, including Holiday Inn) alleging breach of contract, fraud and other claims. But U.S. District Judge Ewing Werlein Jr. dismissed the case with prejudice so the plaintiff can't refile it.

The judge called some of the plaintiffs' allegations "hopelessly convoluted and conclusory." Despite multiple amendments to the complaint, it lacked the specificity the law requires for fraud, Judge Werlein wrote in a July 5 opinion. He also said the plaintiffs didn't show that Holiday Hospitality acted contrary to any provisions in the license agreement.

"This is a great case of a court saying that a contract means what it says and that they are going to uphold that," said Haynes Boone Partner [Deb Coldwell](#), co-chair of the Franchise and Distribution Practice Group and one of the lawyers for Holiday Inn. "It is also important and fairly unprecedented that the court actually dismissed the claims with prejudice at this early dismissal stage, without allowing leave to replead."

Associates Jamee Cotton and Sally Dahlstrom also worked on the matter.

Texas Lawyer covered the ruling, noting that Coldwell "made quick work [of] the breach of contract and fraud claims lodged against Holiday Hospitality Franchising . . . by not only convincing a U.S. district judge to dismiss those claims but also to block the plaintiffs from repleading them again."

Judge Werlein looked at the contract language "and said everything in the contract says 'We don't have to renew you,'" Coldwell told *Texas Lawyer*.

Coldwell regularly represents franchisors, distributors, joint ventures, limited liability companies, partnerships and the individuals who run those companies in jury trials, bench trials and arbitrations. She also chaired the 2,000-plus member American Bar Association Forum on Franchising.