

Franchisee Audit Results in Trademark and Breach-of-Contract Action by California Closet Co. Against Franchisee and its Guarantor

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An audit of a franchisee's records, which allegedly revealed sales activity outside licensed territory and evidence of efforts to conceal that activity, has spawned a new trademark lawsuit. On March 19, 2013, [California Closet Company](#) ("CCC") filed a complaint in the Northern District of Georgia against Lawrenceville, Georgia-based [Stadco, Inc.](#) ("Stadco") and its license agreement guarantor, Lance Stadmiller.

CCC's complaint asserts counts of federal trademark infringement, federal unfair competition, and Georgia law unfair competition ([O.C.G.A. § 23-2-55](#)) against both defendants, a breach of contract action against Stadco as to a franchise agreement, and a breach of contract action against Stadmiller as guarantor of Stadco's franchisee obligations.

On or about October 17, 2006, states the complaint, Stadco and CCC entered into a Franchise Agreement establishing Stadco as a California Closets franchisee for the territory of East Atlanta and granting Stadco a license to use CCC trademarks (such as the federally-registered marks California Closets® and Simplify Your Life®) within that territory. That agreement, according to CCC, required Stadco to, among other things: (1) "only use the CCC Marks and the CCC System^[1] within the licensed Territory," and (2) "accurately report the operations of its franchised business to CCC."

Contemporaneously with execution of the Franchise Agreement, alleges CCC, Stadmiller executed an "Owner's Guaranty and Assumption of Franchisee's Obligations ('Guaranty') by which he agreed to guarantee the performance of Stadco under the Franchise Agreement"

CCC alleges that the following findings resulted from an audit of Defendants conducted between December 11, 2012 and January 24, 2013:

- "[F]or at least the last two years, Defendants have engaged in a longstanding, systematic scheme to wrongfully conduct business outside of the Territory in breach of Defendants' obligations under the Franchise Agreement."
- Defendants submitted falsified reports to CCC, in which Defendants "(i) systematically submitted false reports to CC in which they failed to report the jobs they had performed outside the Territory, and (ii) deliberately falsified the revenues generated by the jobs they

performed within the Territory in order to conceal their contractual breaches and trademark infringement.” The unauthorized work done outside the Territory and concealed by Defendants, CCC states, was done for over 150 customers and generated \$472,017.49 of revenue from work done in another franchisee’s territory of West Atlanta.

The complaint seeks injunctive relief, costs, and attorneys’ fees.

The case is ***California Closet Company, Inc. v. Stadco Inc. and Lance Stadmiller***, No. 1:13-cv-0871-RWS, filed 03/19/13 in the U.S. District Court for the Northern District of Georgia, Atlanta Division, assigned to U.S. District Judge Richard W. Story.

[1] “The CCC System,” states the complaint, “prescribes the development, operation, and marketing of California Closets® retail businesses and is designed to ensure the California Closets® retail businesses and the products and services offered therein meet uniform, high quality standards.”

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