

# NEWS

FRANCHISE AND DISTRIBUTION PRACTICE GROUP

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WIGGIN AND DANA

*Counsellors at Law*



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## Two Franchisors Win Important Arbitration Before Former Chief Justice, Utah Supreme Court

Wiggin and Dana represented the franchisor of the Mexican restaurant concept Bajio Mexican Grill and several affiliates, including Doctor's Associates, Inc ("DAI"), the franchisor of SUBWAY® Restaurants, in an arbitration in Salt Lake City, Utah.

The claimant, Bueno Conato, an area developer with a territory that encompassed three large metropolitan areas in Texas and all of Oklahoma, Kansas, Missouri and Nebraska, opened up two Bajio Mexican Grill restaurants which were not successful. Bueno Conato then brought claims against the Bajio franchisor and several affiliates for breach of contract, tortious interference, fraud and violations of Texas and Utah unfair trade practice statutes. Bueno Conato sought \$16 million in compensatory damages, nearly \$1 million in legal fees and expert witness fees, and an unspecified amount of punitive damages.

During a seven-day arbitration hearing, Wiggin and Dana represented the respondents, rebutting the charges of wrongdoing and arguing that Bueno Conato had itself breached the area development agreement by failing to satisfy its development schedule.

In July 2008, the arbitrator in the case, Michael Zimmerman, former Chief Justice of the Utah Supreme Court, rejected all of Bueno Conato's claims and awarded Wiggin and Dana's clients over \$800,000 for costs including legal fees, expert fees and expenses.

The Wiggin and Dana team was lead by litigation partner Jack Dunham and included associates Tahlia Townsend, Alexander Glage and summer associate Amos Friedland.

### ***About Wiggin and Dana's Franchise and Distribution Practice Group***

The Wiggin and Dana Franchise and Distribution Practice Group represent national, regional and start-up franchisors and distributors in numerous industries throughout the United States. The firm regularly assists these clients in regulatory, transactional and litigation matters. We counsel our clients on a variety of legal areas that relate to franchising and distribution, including employment law, antitrust, vicarious liability, bankruptcy, creditors' rights, intellectual property, and secured transactions.

*Wiggin and Dana LLP is a full service firm serving clients domestically and abroad from offices in Connecticut, New York and Philadelphia. For more information on the firm, visit our website at [www.wigginc.com](http://www.wigginc.com).*

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