

Motels sue Super 8 franchise over mandatory fee

Sioux Falls judge allows class-action lawsuit

By Randy Escarot
Sioux Falls Business Journal

A federal judge in Sioux Falls will allow a single franchisee to represent more than 200 Super 8 motels in a lawsuit that challenges a mandatory fee.

The class-action lawsuit was filed here by Bird Hotel Corp., a Super 8 franchisee in Winthrop, Manitoba, against Super 8 Motels Inc., a wholly owned subsidiary of Wyndham Hotel Group.

The plaintiff argues that the franchisees shouldn't be obligated to pay Super 8 Motels Inc. a 5 percent fee for customers enrolled in a rewards program because the fee wasn't in their contracts.

Court papers identify 226 franchisees affected by the TripAdvisor mandatory fee, including Sioux Falls Super 8 motels on West Russell Street and West 41st Street. Motels in Murdo, Wagner, Winner and Wall also are on the list. The lawsuit doesn't specify a dollar amount for damages, but the franchisees paid several millions of dollars in fees in the past few years.



U.S. District Judge Lawrence Piesol ruled that the lawsuit can represent the interests of all affected motels. Super 8 was founded in Aberdeen, and the court considers it to be a South Dakota corporation.

Bird Hotel Corp. is represented by Scott Heidelberg, Ron Parsons and Scott Abdullah, all with the Sioux Falls law firm of Johnson, Heidelberg, Jan-Klow, Abdullah and Johnson.

Super 8 Motels Inc. has filed an appeal of Piesol's decision to the 8th U.S. Circuit Court of Appeals. The defendant's lead lawyer, Edward Spaly, of Kansas City, was traveling and couldn't be reached to comment on the case.

Rich Roberts, vice president of communications for the Wyndham Hotel Group, said he can't comment on details of lawsuits that are in progress. He said the company has 2,061 Super 8 motels with 127,038 rooms worldwide. Super 8 is one of 10 hotel brands franchised by Wyndham.

Paul Costas, who owns the Winthrop
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Costas said. The plaintiff says in court filings that "the price for doing business as a Super 8 franchisee was negotiated and agreed upon by the parties in the franchise agreement. Super 8 Motels may revise its system and rules of operation but has no power to unilaterally change the essential terms of the contract by imposing an additional franchise or royalty fee upon the plaintiff during the 20-year term of its agreement."

All of the 226 Super 8 franchisees listed in court documents entered 20-year contracts in the 1980s or 1990s, Abdullah said. The federal appeals court is expected to decide within a few weeks whether to hear the appeal. If so, the sides will file briefs and present oral arguments in St. Paul. Otherwise, the case will proceed in district court in Sioux Falls.

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