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Kentucky Chamber applauds court decision on state's franchise businesses

FRANKFORT, Ky. (Jan. 30, 2008) – The Kentucky Supreme Court has overturned a Court of Appeals decision in the case of *Papa John's, International, Inc. v. McCoy*. The opinion upholds the arguments made by the Kentucky Chamber of Commerce in an amicus brief filed on behalf of Kentucky businesses.

Central to the case was whether a franchisor can be held liable for the actions of a franchisee's employee over whom it has no control of hiring or managing. The Court of Appeals took what the Supreme Court called a "mixed bag" of legal theories in finding that a franchisor could be liable, but in its decision overturning the Court of Appeals ruling, the Supreme Court recognized that it had to "take a more precise approach given the ubiquity of the franchise method of doing business in Kentucky."

Realizing that the Court of Appeals decision would be harmful to all franchise businesses in the Commonwealth, the Kentucky Chamber filed an amicus brief to help the court understand the broad implications the decision would have on franchising as a fundamental business model.

"The Supreme Court's decision clarifies and bolsters the historic interpretation of Kentucky law regarding franchisor liability in these situations," said Kentucky Chamber President and CEO Dave Adkisson. "We are pleased that the high court listened to the community's concerns when ruling on this case."

According to the Supreme Court's opinion, a franchisor is "vicariously liable for the conduct of the franchisee when it, in fact, has control or right of control over the daily operation of the aspect of the franchisee's business that is alleged to have caused the harm." The opinion also states that if harm is caused by an aspect of the franchisee's business outside of the franchisor's control, such as an employee who is alleged to have committed intentional, harmful acts, the franchisor cannot be held liable.

The Kentucky Chamber's public affairs team, under the direction of its members and board of directors, actively monitors legislation, regulations and court decisions that may threaten the way Kentucky companies do business.

About the Kentucky Chamber of Commerce

From its beginnings in 1946 as a bipartisan voice for business at the state Capitol, the Kentucky Chamber of Commerce has evolved into the premier business association in the state. Today the Chamber represents more than 12,000 business leaders — from Fortune 500 companies and family-owned shops — which share a strong interest in the state's economic future. Kentucky employers benefit from a broad range of services offered through Chamber membership: year-round lobbying, timely communications on business issues, publications and seminars on evolving regulations and policies, and a variety of other member benefits.

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