

Wayne Tartline and David Harris Successfully Defend Alpharetta Restaurant from National Chain's Infringement Claims

By October 24, 2016

In late 2014, Groucho's Franchise System, LLC sued Alpharetta restaurant *Grouchy's New York Deli and Bagels* claiming that the deli's use of the name "Grouchy's" was confusingly similar to the "Groucho's Deli" name used by the national deli chain. The suit claimed that *Grouchy's New York Deli and Bagels* was confusing customers and unlawfully trading upon the goodwill of the Groucho's Deli brand. Groucho's lawsuit sought damages equal to approximately ten years of royalties plus "treble" damages (three times normal damages) for alleged intentional use of the name for the purpose of confusing customers. The suit also sought an award of all attorneys' fees incurred by Groucho's Deli in prosecuting its case.

Mr. Tartline's and **Mr. Harris'** defense of *Grouchy's New York Deli and Bagels* culminated with their filing a motion for summary judgment in Atlanta federal court. The Court granted their motion, throwing out all of the claims against *Grouchy's New York Deli and Bagels*. The Court found specifically that Groucho's Franchise System, LLC had failed to bring its claim in a timely manner which unfairly prejudiced *Grouchy's New York Deli and Bagels* which had made substantial investments to grow its brand over many years. The Court further noted that Groucho's Franchise System, LLC was unlikely to show that customers were likely to be confused by the two relatively similar names. In view of the positive disposition of the case, **Mr. Tartline** and **Mr. Harris** are currently seeking reimbursement of their client's attorneys' fees in a motion which remains pending before the Court.