

BLOGS

Contracts

Colorado Court Denies Franchisor's Motion to Dismiss Breach of Contract Counterclaim That Was Based On the Implied Covenant of Good Faith And Fair Dealing

Meanwhile, a federal court in Colorado has denied in part a franchisor's motion to dismiss counterclaims brought by a franchisee, including a claim for breach of contract based on the implied covenant of good faith and fair dealing. *E&I Holdings, Inc. v. Coral Springs Eggs & I, LLC*, 2018 WL 4680339 (D. Colo. Sept. 28, 2018). The dispute arose when E&I Holdings, a franchisor of various restaurants including the Egg & I, terminated two franchise agreements with Coral Springs after it failed to comply with the agreed upon store development schedule. E&I sued for damages and injunctive relief to stop Coral Springs from continuing to operate one of the locations. In response, Coral Springs asserted five counterclaims including breach of contract, fraud in the inducement, and violations of state franchise and unfair and deceptive trade practices statutes. E&I moved to dismiss all of the counterclaims.

The court denied E&I's motion to dismiss the breach of contract counterclaim, finding that the claim was based entirely on the implied covenant of good faith and fair dealing, and that E&I failed to address the implied covenant in its motion. Coral Springs alleged that E&I "was bought by and merged into [a] competing breakfast chain First Watch in 2015," and that the merger of the competing brands created several issues. Specifically, it claimed that E&I refused to approve any new Egg & I locations for at least one year after the merger, that E&I was "strongly opposed" to opening the eleven Egg & I franchises in Coral Springs' development agreement because they would have been in the same area as existing First Watch restaurants, that E&I imposed an undisclosed cap on rent for new restaurants which forced Coral Springs to open in unsuitable locations, and that E&I abandoned and sabotaged the Egg & I brand by removing the most popular menu items to make it less competitive with First Watch stores. These issues, according to Coral Springs, constituted a material breach of the implied covenant of good faith and fair dealing in the development and franchise agreements, which it pled as a breach of contract. Rather than addressing the good faith and fair dealing argument, E&I focused solely on whether the termination was proper under the express terms of the contracts. The court denied E&I's motion to dismiss the breach of contract counterclaim because it "fail[ed] to address the express basis of Defendants' counterclaim." The court granted E&I's motion to dismiss the four other counterclaims.

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