

BLOGS

Duty of Good Faith and Fair Dealing

Court Declines to Dismiss Claim Brought by Audi Dealer After Manufacturer Puts Another Dealership Nearby

The Supreme Court of New York recently denied a manufacturer's motion to dismiss a dealer's cause of action for breach of the covenant of good faith and fair dealing on the grounds that the manufacturer may have acted improperly in placing a competing dealer in the midst of the dealer's core market segment. *JJM Sunrise Auto., LLC v. Volkswagen Grp. of Am., Inc.*, 2014 N.Y. Misc. LEXIS 4793 (N.Y. Sup. Ct. Nov. 6, 2014). The parties had entered into a dealer agreement pursuant to which JJM became an authorized Audi dealer and operated its own dealership. JJM alleged that Audi breached the covenant of good faith and fair dealing by failing to inform it, during both the initial negotiation process and for months after it became an Audi franchisee, that Audi had in place a long-standing plan to award a new dealership to a competing dealer and to allow that dealer to locate a new store directly adjacent to one of the largest markets in which JJM sold and serviced vehicles. JJM argued that Audi's actions were directly counter to its implied duty to spread out its dealer network so that each individual dealer had sufficient space within which to operate. Audi moved to dismiss this claim on the grounds that it was duplicative of JJM's claim for breach of contract and that any prohibition on the establishment of a second dealership would be contrary to the express terms of the parties' dealer agreement, which provided that JJM did not have an exclusive right to sell or service products in any area or territory.

Accepting as true JJM's allegations that it was denied the benefits of the dealer agreement, the court held that JJM had successfully stated a claim for breach of the covenant of good faith and fair dealing. The court first determined that JJM had alleged additional wrongful conduct in the parties' negotiation process that was not alleged as wrongful conduct constituting a breach of contract. Accordingly, while JJM's claims for breach of the implied covenant and breach of contract involved some overlap, they were distinct, independent causes of action. The court also rejected Audi's argument that JJM's claim was inconsistent with the nonexclusivity provision of the dealer agreement and reasoned that while Audi retained the discretion to add newly franchised dealers within JJM's existing territory, that discretion could not be exercised in bad faith so as to frustrate JJM's right to receive the fruits of the contract. Therefore, JJM's allegations were sufficient to withstand Audi's motion to dismiss.

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