

## BLOGS

Duty of Good Faith and Fair Dealing

# Court Rejects State Law Good Faith and Fair Dealing Claim

In *Myers v. Jani-King of Philadelphia, Inc.*, 2012 U.S. Dist. LEXIS 172782 (E.D. Pa. Dec. 5, 2012), the United States District Court for the Eastern District of Pennsylvania dismissed the franchisees' claim that the franchisor had breached the duty of good faith and fair dealing because the applicable state law did not recognize the existence of such a duty between parties to a franchise agreement. The franchisees brought a class-action lawsuit against Jani-King on the grounds that their franchise agreements constituted illegal employment contracts and raised their breach of the duty of good faith and fair dealing claim, among several others. Jani-King moved to dismiss the claims or in the alternative to transfer the case to Texas pursuant to a forum selection clause contained in the franchise agreements.

The court denied Jani-King's motion to transfer but granted its motion to dismiss with respect to the good faith and fair dealing claim. Although the parties disputed whether Pennsylvania or Texas law should apply, the court held that the claim failed under either state's law. The franchisees argued that a duty of good faith and fair dealing can exist under Texas law where the parties share a special relationship or where they possess substantially unequal bargaining power. They also relied on a Texas statute which provided that a party "to a franchise agreement owes a duty of good faith and fair dealing to the other party." The court rejected both arguments noting that the statute the franchisees relied upon had been repealed and that Texas courts had consistently declined to extend the duty of good faith to the franchise context. The court also determined that a duty of good faith arises under Pennsylvania law only when a franchisor seeks to terminate the franchise relationship. Because the conduct at issue did not concern termination, the court concluded that the claim would be barred under both Pennsylvania and Texas law.

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