

**BLOGS**

Contracts

Florida Federal Court Grants Franchisor's Motion to Dismiss Breach of Implied Covenant of Good Faith and Fair Dealing Claims

A federal court in Florida recently granted a franchisor's motion to dismiss a franchisee's claim for breach of the implied covenant of good faith and fair dealing, but allowed a claim for breach of contract to proceed. *Pinnacle Foods of Cal. v. Popeyes La. Kitchen*, 2022 WL 17736190 (S.D. Fla. Dec. 16, 2022).

A federal court in Florida recently granted a franchisor's motion to dismiss a franchisee's claim for breach of the implied covenant of good faith and fair dealing, but allowed a claim for breach of contract to proceed. *Pinnacle Foods of Cal. v. Popeyes La. Kitchen*, 2022 WL 17736190 (S.D. Fla. Dec. 16, 2022). Pinnacle Food entered into a development agreement with Popeyes which obligated Pinnacle to meet certain development requirements and operational metrics. When Pinnacle failed to meet the development requirements, Popeyes first rescinded Pinnacle's exclusive territories and then terminated its franchise agreements, as permitted by the development agreement. Pinnacle sued Popeyes, alleging that Popeyes evaluated restaurant sites proposed by Pinnacle under different criteria than it applied in comparable markets—thereby breaching both the development agreement and the implied covenant of good faith and fair dealing. Pinnacle alleged that Popeyes further breached the implied covenant by terminating the exclusivity provision of the development agreement for pretextual reasons. Finally, Pinnacle alleged that the termination constituted a violation of Florida's deceptive trade practices statute. Popeyes moved to dismiss all claims.

The court rejected Popeyes' argument that Pinnacle failed to allege actual damages on its breach of contract claim, but the court did dismiss the breach of the implied covenant of good faith and fair dealing claim as duplicative of the breach of contract claim. The court granted Popeyes' motion to dismiss a second good faith and fair dealing claim, finding that Popeyes' reasons for terminating Pinnacle's exclusivity were not pretextual, but rather supported by the terms of the development agreement. Finally, the court granted Popeye's motion to dismiss Pinnacle's Florida deceptive trade practices claim as there was no injury to a "consumer."

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