

A yellow right-angled triangle pointing downwards and to the right, positioned to the left of the 'BLOGS' header.

**BLOGS**

Good Faith and Fair Dealing

## California Federal Court Grants Motion to Dismiss Breach of Contract Claims but Allows Good Faith and Fair Dealing Claim

In *Passport Health, Inc. v. Travel Med, Inc., et. al.*, 2010 U.S. Dist. LEXIS 46210 (E.D. Cal., May 11, 2010), a California federal court granted a franchisor's motion to dismiss the franchisee's claims for breach of the franchise agreement, but refused to dismiss its claims for the franchisor's breach of the covenant of good faith and fair dealing. The franchisee claimed that the franchisor breached the franchise agreement, in part, by failing to provide "training, marketing, management methods, procedures, and materials," by providing "flawed and defective methods, standards and procedures," and by providing a "flawed software program." After reviewing the relevant provisions of the franchise agreement, the court granted the franchisor's motion to dismiss because even if the allegations were true, the franchisor did not breach the express terms of the franchise agreement. The court, however, refused to dismiss the implied covenant claims, finding that even if the franchisor did not breach the express terms of the franchise agreement, it could breach the implied covenant of good faith and fair dealing.