

Partnership Agreement Did Not Eliminate Implied Covenant of Good Faith and Fair Dealing

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On June 10, 2013, the Delaware Supreme Court issued an opinion in *Gerber v. Enterprise Products Holdings, LLC* (“Gerber”), clarifying the degree to which parties to a partnership agreement may contract out of their fiduciary duties. Delaware law allows general partners to modify or eliminate their fiduciary duties by contract so long as the implied covenant of good faith and fair dealing remains intact. In Gerber, the Court held that the lower court erred in dismissing a claim for breach of the implied covenant on the grounds that the claim was foreclosed by the express terms of the partnership agreement.

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