

Merger Clause In Environmental Liability Allocation Agreement Defeats Fraudulent Inducement Claim

The Michigan Court of Appeals has dismissed a claim for fraudulent inducement, holding that a merger clause in the contract at issue barred the claim.

In 1992, the United States filed a civil suit against a group of companies (the Group), seeking to recover costs the United States incurred in responding to the release of hazardous substances at two sites. The defendant, Detrex Corporation (Detrex), was a member of the Group. The Group's members entered into an agreement between themselves that determined the amount of the total liability for which each Group member would be responsible. The Group subsequently settled with the United States, and most members paid the amounts they had been allocated under the agreement. Detrex, however, refused to pay any money, so the other Group members paid Detrex's share, which exceeded \$700,000, and sued Detrex to recover that amount.

Detrex filed a counterclaim and affirmative defense, alleging, among other things, that the other Group members had fraudulently induced it to enter into the allocation agreement by making the following oral representations: (1) the litigation would be aggressively defended until a verdict was reached; (2) the Group would institute an extensive action against other companies to reduce Detrex's allocated share, and (3) under no circumstances would Detrex's allocated share exceed \$100,000. The trial court ruled in favor of the Group, and Detrex appealed.

The Michigan Court of Appeals affirmed the trial court's holding, finding that Detrex did not allege facts to support a claim for fraudulent inducement. The Group's agreement contained

a “merger clause,” specifying that all agreements, written or otherwise, between the parties are contained in the written document. In rejecting Detrex’s argument, the court observed the rule that “a contract with a merger clause nullifies all antecedent claims...includ[ing] any collateral agreements that were allegedly an inducement for entering into the contract.” Because Detrex’s claim was based on oral “collateral agreements,” the representations that formed the basis for Detrex’s claim were nullified by the merger clause.

Additionally, the court observed that a successful fraudulent inducement claim requires a claimant to establish that it “reasonably relied” upon promises of future conduct made by another party. The court had recently held that it is “unreasonable for a party to rely on statements or promises not contained within a written agreement, when that agreement contains [a merger] clause.” According to this precedent, Detrex’s reliance on the oral promises made by the Group was unreasonable, and, therefore, Detrex could not show that it reasonably relied on such representations.

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