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Commercial

Equipment rental

Where a defendant lessee of equipment has not paid the rental charge, the plaintiff lessor is entitled to summary judgment on a claim asserting breach of the lease, as the defendant has not presented any evidence that the plaintiff fraudulently induced the defendant's agents to enter into the agreement.

"Defendants, in their motion opposing summary judgment state that there are issues of material fact as to whether [defendant] Village Realty [Inc.] knew that it was entering into a contract with [plaintiff] Wells Fargo. Even construing the facts in the light most favorable to the Defense, that [equipment rental agreement] #2 and the Delivery and Acceptance Certificate were signed under fraudulent pretenses, this does not excuse Defendants from their obligations under that contract...On his own statement of the facts, Defendant learned of his contract with Wells Fargo on January 19, 2004. He did nothing to try to escape from the contract after his conversation with the Wells Fargo agent and only seeks to have the equipment installed, as per ERA #1 and #2...Even assuming fraud in the initiation of ERA #2 and Wells Fargo's liability for any fraud, Defendant did not exercise its right to void the contract and is no barred from so doing.

"The Defendant has presented no evidence that would raise a question of material fact as to Plaintiff Wells Fargo's vicarious liability for any fraud potentially perpetrated by Norvergence ... The only support for Wells Fargo's alleged vicarious liability for any failures of Norvergence to perform its contract obligations with Defendant is the allegation that Defendant spoke with a Wells Fargo agent named 'Bill' who told Defendant that Wells Fargo would 'light a fire under [Norvergence's] feet.' Even viewed in the light most favorable to the Defendant, this is insufficient evidence upon which to establish a relationship of vicarious liability because there is no indication of 'Bill's' authority to speak for Wells Fargo nor his authority to exert some form of control over the actions of Norvergence.

"The failure of the vicarious liability claim also resolves Defendant's counter-claims for various violations of M.G.L. 93A 9 and 11, which are based on the allegation of Wells Fargo's vicarious liability for Norvergence's actions.

"For the above reasons, the motions for summary judgments on Counts 1 and 2 and Counterclaims 1, 2, 3, and 4 are granted."

Wells Fargo Financial Leasing, Inc. v. Village Realty, Inc., et al. (Lawyers Weekly No. 16-008-06) (3pages) (Coven, J.) (Quincy District Court) David S. Katz for the plaintiff; John Greene for the defendants (Civil Action No. 200456CV458) (April 17, 2006)