

**BLOGS**

Fraud/Misrepresentation

Wisconsin Federal Court Grants Distributor's Motion to Dismiss Fraudulent Inducement Claims

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A federal court in Wisconsin has dismissed a dealer's claim that a supplier fraudulently induced the dealer to enter into a distributor agreement. *Mid-South AG Equipment, Inc. v. Wacker Neuson America Corporation*, 2021 WL 2875610 (E.D. Wis. July 8, 2021). Wacker Neuson America, a seller of construction equipment, entered into a distributor agreement with Mid-South AG Equipment whereby Mid-South purchased equipment from Wacker for resale in Kentucky. Mid-South alleged that, prior to entering into the distributor agreement, Wacker verbally promised to repurchase any equipment Mid-South was unable to sell. After Mid-South found itself unable to sell Wacker's equipment and decided to terminate the agreement, however, it found that Wacker would not repurchase unused and unsold equipment without discounting the purchase price significantly. Mid-South filed suit, claiming Wacker had fraudulently induced Mid-South to enter into the agreement with its repurchase promise.

Wacker filed a motion to dismiss arguing, among other things, that Mid-South could not have reasonably relied on the alleged verbal promise that Wacker would repurchase the equipment — an element required to establish fraudulent inducement — because the distributor agreement explicitly stated Wacker could repurchase the equipment "at its option." Mid-South argued that it justifiably relied upon Wacker's misrepresentation because it could be seen as a promise by Wacker to affirmatively exercise its discretion under the distributor agreement to repurchase the inventory. The court found that the explicit terms of the distributor agreement allowing Wacker to repurchase of the equipment "at its option" directly contradicted any verbal promise guaranteeing such repurchase. As a result, despite case law holding reliance to be a factual determination for the jury except in rare circumstance, the court held "no reasonable finder of fact could conclude" that Mid-South's reliance was reasonable. The court, therefore, dismissed Mid-South's claim.

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