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Unsettled: When Fraud Defeats the Effect of a Release


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You just settled a massive case. You made the settlement payment and your opponent signed a release. You think it's over. Time passes. Then, one day, your opponent claims you lied during settlement negotiations to convince him or her to sign the release. Your opponent sues you a second time, this time claiming fraud.

If you think the release automatically and fully absolves you, think again. Under Minnesota law, a victim of fraudulent inducement to enter into a contract has a choice between (a) suing to rescind the contract he or she was induced to sign, or (b) keeping the contract in place and suing for damages. The victim has the same choices even if the contract at issue is a settlement agreement. The victim is not required to rescind the agreement in order to seek a remedy in court. The victim can instead sue for damages, without unwinding the agreement or returning any settlement payment received under the agreement. If the defendant raises the release provision of the agreement as a defense, proof of fraud will defeat the effect of the release. And if the defendant argues that it paid money for the release, the payment will merely serve as an offset to reduce the victim's damages award. See *Great Plains Educational Foundation, Inc. v. Student Loan Finance Corporation*, 954 N.W.2d 844, 849 (Minn. Ct. App. 2020).

If you are hoping to find salvation in other boilerplate provisions of your settlement agreement, you may be disappointed. Under Minnesota law, a broad contractual disclaimer of fraud does not necessarily negate a fraud claim. *Nat'l Equip. Corp. v. Volden*, 252 N.W. 444, 445 (Minn. 1934). An alleged fraudster cannot avoid liability by including a contract provision that says "[t]his contract was not procured by fraud" or "the other party shall not rely upon [my fraudulent statements]." *Ganley Bros. v. Butler Bros. Bldg. Co.*, 212 N.W. 602, 603 (Minn. 1927).

A contract can only defeat a fraud claim as a matter of law if the contract specifically contradicts the factual substance of the alleged misrepresentation. *Clements Auto Co. v. Serv. Bureau Corp.*, 444 F.2d 169, 178 (8th Cir. 1971). Provisions that do not address the factual content of the alleged misrepresentation, such as boilerplate integration clauses and "no reliance" clauses, are not enough to avoid trial on a fraud claim. Although a 2008 journal article suggested that combining a standard integration clause with a broad "no reliance" clause could bar a fraudulent inducement claim, the Minnesota Court of Appeals recently rejected that theory. *Great Plains*, 954 N.W.2d at 850-51 (discussing Eric J. Magnuson & Daniel J. Supalla, *Life with Hoyt: Avoiding Misrepresentation Claims in Negotiating Settlement Agreements*, 1 Wm. Mitchell J. L. & Prac. 3 (2008)). As the court made clear, non-specific contract provisions simply do not preclude fraud claims as a matter of law.

With all that said, there is no need to panic about the state of settlement agreements in Minnesota. The law summarized above does not mean that all settlement agreements are on shaky ground, that litigants can never achieve finality, that all settling defendants are vulnerable to fraud claims by plaintiffs who agree to settle for less, or that contract disclaimers are totally meaningless. While the law understandably protects fraud victims, it does not give people free reign to cry "fraud!" every time they regret accepting a settlement. For some perspective, consider the following:

First, although the Minnesota Court of Appeals recently confirmed and clarified the law in this area, see id., the underlying principles have been in place for decades. Despite the well-established legal protections for fraud victims, claims for fraudulent inducement of settlement agreements are rare. In the vast majority of cases, settling parties move on without ever hearing from one another again.

Second, settling defendants can protect themselves from future fraud claims. Obviously, the best way to protect yourself is to not commit fraud. You can further protect yourself by including specific factual disclaimers in your contract. For example, if the contract explicitly says "the sky is blue," no party can later claim you misrepresented "the sky is red." As another example, if the plaintiff specifically agrees that he or she "is not relying on any representations regarding the financial condition of" the defendant, that disclaimer should preclude the plaintiff from claiming the defendant misrepresented its financial condition.

Third, there is value to including general disclaimers, integration clauses, or "no reliance" clauses in settlement agreements, even if they are not dispositive of fraud claims. These provisions may help resolve issues other than fraud, such as the use of parol evidence to modify or interpret the agreement.

Minnesota law strikes an appropriate balance between promoting the finality of settlement agreements and compensating victims of fraudulently induced settlement agreements. The law should not give you an unsettling feeling (pun intended).

BIO: Vince Louwagie and Phil Kaplan are business litigators at Anthony Ostlund Baer & Louwagie P.A. Vince has over 30 years of experience handling a wide variety of business litigation matters, including disputes involving business owners and investors, securities, professional malpractice and executive employment. Phil also represents clients in a range of cases, primarily focusing on commercial real estate disputes, shareholder/partnership disputes, and business-related appeals..