

MARKS & WEINBERG, P.C.

Barrier Systems v. AFC Enterprises

694 NYS.2d.440, July, 2000

Lessee was dissatisfied with equipment leased from Lessor for the purposes of road construction. After repeated complaints that the equipment did not have the appropriate devices for the job, Lessee modified the contract and obtained an extension of time in which to make payments and received better equipment. After finishing construction, Lessee failed to make payments remaining under the modified lease. Lessor sued for the remaining payments and Lessee countered by contending that Lessor had intentionally misrepresented the future and performance characteristics of the equipment and had employed bait and switch and other fraudulent tactics inducing Lessee to enter into the lease. The Court granted summary judgment for Lessor and held that whether under a waiver or ratification analysis, a party may not avoid an agreement on grounds of fraud if, after acquiring knowledge of the fraud, he affirms a contract by accepting a benefit under it.

Marks & Weinberg, PC is a law firm with significant experience in dealing with virtually every type of equipment and facility lease financing. The lawyers of the firm have participated in leasing financings for more than a billion dollars of equipment and are recognized throughout the industry. If you would like more cases or articles on leasing, or have any questions or comments about this Article or other leasing issues, please visit leaselawyer.com or contact Barry Marks at 205.251.8303 or Ken Weinberg at 205.251.8307.

