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Efco Corp. v. Norman Highway Constructors, Inc.

606 N.W.2d 297 (Iowa, 2000)

Norman entered into a contract with EFCO for the lease of concrete forming equipment. A disagreement later arose as to how much Norman owed EFCO under the contract. Norman then brought an action against EFCO in Texas court alleging breach of contract, fraud, and breach of express and implied warranties. About two hours later, EFCO brought an action against Norman in Iowa court for the recovery of lease payments.

The contract contained a choice of forum clause and governing law clause which named Iowa as the appropriate forum for any disputes arising out of the contract and as the law to be used in any dispute. Norman then counterclaimed EFCO in the Iowa District Court, alleging breach of express and implied warranties, fraud, and negligent misrepresentation. The Court dismissed both the fraud and negligent misrepresentation claims, on the basis that EFCO was not in the business of providing information, a requirement under Iowa law. The Court found in favor of EFCO, and ordered Norman to pay EFCO \$96,916 for unpaid lease payments.

In his appeal, Norman claimed that the Iowa court did not have personal jurisdiction, but the Iowa Supreme Court upheld the forum selection clause in the contract. Additionally, Norman argued that Texas law did not require that the defendant be in the business of providing information for negligent misrepresentation cases like Iowa law requires. Once



again, the Court pointed to the forum selection and governing law clause. Norman lastly argued it should not have to pay attorney's fees, but the Court upheld the provision in the contract which requires the payment of attorney's fees by the losing party.

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