

MARKS & WEINBERG, P.C.

Textron Financial Corporation v. Nationwide Mutual Insurance Company

684 N.E.2d 1261 (Ohio App. 10/30/96)

Lessee (Nationwide) subleases equipment which is then sub-subleased, all without telling lessor (Textron). Lessor learns of the breach in May and declares the lessee to be in default in August (after the final rental payment is made).

Lessor sues, claiming that it has lost business opportunities because Nationwide would have requested computer upgrades which the sublessee did not. Lessor also seeks damages for fraud. The appeals court reverses a lower court ruling and finds in favor of lessee because (1) lessor did not prove that it was actually damaged and could not rely on the damages described in the lease due to its delay in declaring the default and (2) lessee's actions fall short of fraud or even negligent misrepresentation. *It seemed that the court was influenced by the lessor's delay in acting after it had knowledge of the improper subleases, particularly as it was collecting rent during this time.*

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