

# MARKS & WEINBERG, P.C.

## AT&T Credit Corp. v. Zurich Data Corp.

37 F.Supp. 2d 367 (N.J. 1999)

After concluding that the lease agreement was effective and enforceable, the court held that defendant Zurich had waived the right to reject nonconforming leased goods. By express terms of the leasing agreement, Zurich waived any and all rights and remedies, including those conferred by the UCC, statute, or otherwise.

In addition, the lease agreement imposed on Zurich the unconditional obligation to make payments to AT&T regardless of its dissatisfaction with the leased goods. According to the court, finance leases with such rigid provisions are routinely enforced. Under New Jersey law in particular, "promises to make all requisite payments and not to assert any defenses to such payment are valid and enforceable." As such, upon acceptance of the leased goods, Zurich relinquished its right to reject the leased goods for nonconformity. The court then found that the Defendant lessee had breached the lease agreement when it made the first payment but failed to make any subsequent payments and that AT&T was entitled to recover damages suffered as prescribed in the lease, as well as costs and expenses incurred to enforce the terms of the agreement. Furthermore, the court held that AT&T was not limited to reduced damages as a result of its failure to repossess the leased equipment after the default by lessee.



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