

MARKS & WEINBERG, P.C.

Fichtner v. Nynex Credit Company

1996 WL 45982 (Tex. App. 1996)

Lessee was unsuccessful on all counts: First, the lessee tried to say that usury law applied because the lease was not a true lease. The court noted that no purchase option existed under the lease and, under Texas law analyzed at the time, this fact alone was enough to render the lease a true lease and mean that usury did not apply.

Second, the lessee tried to state the fact that Nynex had the right to adjust the rental rate to reflect the actual cost of the equipment, and did so, meant that there was no "meeting of the minds" as to material terms of the lease. Nope, the lease specifically granted that right to Nynex under controlled and specific circumstances and the lessee made payments acknowledging the correctness of the change.

The lessee was also unsuccessful in trying to bring the Texas Deceptive Trade Practices Act into effect, but failed to argue the point in his motion.

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