

MARKS & WEINBERG, P.C.

Pitney Bowes Credit Corp. v. Escotel Software, Inc.

2002 WL 451015 (Conn. Super.)

This case arises from an equipment finance lease between Pitney Bowes Credit Corp. (Pitney Bowes) and Escotel Software, Inc. (Escotel). After signing a written lease agreement with Pitney Bowes, Escotel failed to produce monthly payments required by the lease. This action, an application for a prejudgment remedy seeking to attach property to secure a sum of \$150,000, stems from a larger case that involved Pitney Bowes, seeking to recover the amount on the lease owed by Escotel.

Escotel presented two defenses in its motion to dismiss the application. First, that despite the lease provision that there were providing no warranties, express or implied, regarding any matter, including equipment condition or its merchantability, it did not have to abide by the lease terms because the equipment did not work properly. The court disagreed and held that the equipment did not work properly was of no consequence to lessee's obligation to make lease payments to the lessor. Also, Escotel argued that because the plaintiff was unable to produce the original, but only a copy, of the original lease, the plaintiff failed the best evidence rule. However, the court ruled that because the plaintiff had made every effort available to find the lease, then this satisfied the threshold for the rule. Thus, the court held that the lessor was entitled to a prejudgment remedy of attachment in the amount of \$80,000 against the lessee.



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