

## CASES YOU SHOULD KNOW

41<sup>ST</sup> ANNUAL CORPORATE  
COUNSEL INSTITUTE  
May 16, 2019

Justice Tracy Christopher  
Fourteenth Court of Appeals

Yvonne Ho  
Bracewell LLP

## OVERVIEW

- Contract Interpretation and Enforcement
- Discovery
- Attorney-Client Privilege
- False Claims Act and Foreign Corrupt Practices Act

# CONTRACT INTERPRETATION AND ENFORCEMENT

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## FRAUDULENT INDUCEMENT CLAIMS

- **Waiver-of-reliance clause:**
  - Can bar a fraudulent inducement claim
  - Multi-factor test for enforceability of waiver clauses
    - *Forest Oil Corp. v. McAllen*, 268 S.W.3d 51 (Tex. 2008)
    - *Schlumberger Tech. Corp. v. Swanson*, 959 S.W.2d 171 (Tex. 1997)
- **Standard merger clause:**
  - Does not amount to a waiver of reliance
    - *Italian Cowboy Partners, Ltd. v. Prudential Ins. Co. of Am.*, 341 S.W.3d 323 (Tex. 2011)

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## FRAUDULENT INDUCEMENT CLAIMS

***Int'l Bus. Machs. Corp. v. Lufkin Indus. LLC*, No. 17-0666, 2019 WL 1232879 (Tex. Mar. 15, 2019)**

- Provision waived reliance on representations “not specified” in the contract
- Held: fraudulent inducement claim was barred
  - waiver of reliance was enforceable
  - the misrepresentations were not specified in the contract

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## FRAUDULENT INDUCEMENT CLAIMS

***Mercedes-Benz USA, LLC v. Carduco, Inc.*, No. 16-0644, 2019 WL 847845 (Tex. Feb. 22, 2019)**

- Oral representations contradicted express terms of contract
- Held: fraudulent inducement claim was barred
  - Contradiction between express contract language and oral representations raised “red flags”
  - Reliance on oral representations was unjustifiable, as a matter of law

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