

United States District Court, N.D. California.

Hotan Corporation vs. Prater

TOPIC:

Synopsis: CDs stolen in transit

Case Type: Fraud & Misrepresentation; Fraud; Contracts; Breach

DOCKET NUMBER: 06CV06994(WHA)

STATE: California

COUNTY: Not Applicable

Verdict/Judgment Date: December 17, 2007

JUDGE: [William Alsup](#)

ATTORNEYS:

Plaintiff: Erin M. Adrian, Silicon Valley Law Group, San Jose; [Christopher Ashworth](#), Silicon Valley Law Group, San Jose.

Defendant: [Marc I. Hershman](#), Greene, Chauvel, Descalso & Minoletti, San Mateo.

SUMMARY:

Verdict/Judgment: Defendant

Verdict/Judgment Amount: Defense

Range: \$0

Trial Type: Jury

Deliberations: Not reported.

Jury Poll: Not reported.

EXPERTS:

Plaintiff: Not reported.

Defendant: Not reported.

TEXT: CASE INFORMATION FACTS/CONTENTIONS

According to court records: On August 22, 2005, plaintiff Hotan Corporation tendered a **trailer**-load consignment of freight to defendant BAP Logistics Inc. for transportation from Livermore, California to Miami, Florida. The value of the freight (blank CD-ROM discs) was \$129,576, and defendant BAP issued its own pre-printed bill of lading for the shipment, which contained no limitations on carrier liability.

Defendant BAP utilized the services of Megatrux Inc., a now-defunct carrier. On August 27, 2005, the freight was stolen in transit in Miami, Florida. Defendant BAP informed plaintiff of the loss and referred plaintiff to Megatrux. Plaintiff demanded of BAP that BAP compensate plaintiff for the loss. Defendant BAP denied liability for the loss of freight and refused to pay.

Plaintiff alleged defendants BAP and Barry A. Prater knew that they would claim to be a freight broker and not liable for loss, but intended plaintiff to believe BAP was a carrier.

Defendant denied the allegation and claimed it did not hold itself out as a carrier. Defendant Prater had a freight broker license. Defendant filed a cross-claim for indemnity against Megatrux. Defendant also counter-claimed against plaintiff, seeking \$14,247 for commissions and freight charges owed on the shipment.

CLAIMED INJURIES NA

CLAIMED DAMAGES According to court records: Not reported.

SETTLEMENT DISCUSSIONS According to court records: Not reported.

COMMENTS According to court records:

The complaint was filed on November 8, 2006.

Trials Digest, A Thomson/West business

Northern District Federal Court/San Francisco

8 Trials Digest 11th 13 (N.D.Cal.), 2007 WL 4941044

END OF DOCUMENT