

*Lacagnina v. Comprehend Systems, Inc. (2018)*

**An “at will” provision in an employment contract does not mean an employer can’t avoid tort liability for fraudulent inducement of contract based on the contract’s inclusion of said provision.**

**FACTS/PROCEDURE**

On June 1, 2012, David Lacagnina signed a written employment agreement for a role as director of business development for Comprehend Systems, Inc (Comprehend). The agreement was signed after e-mail exchanges with co-owners Richard Morrison and Jud Gardner. The agreement signed purported to reserve Comprehend's right to "modify job titles, duties, salaries, and benefits from time to time as it deems necessary." About one year later Lacagnina met with Morrison and Gardner to discuss the terms of an amended employment agreement. After reviewing the amended agreement, Lacagnina called Morrison and told him he wanted to have a lawyer review the agreement before he signed it. Lacagnina was assured by Morrison and Gardner to "trust them" and that they will "revisit this." Lacagnina relied on those assurances and signed the amended agreement on June 21, 2013.

About five months later, Lacagnina was abruptly terminated and sued Comprehend and the co-owners, Morrison and Gardner. Lacagnina claimed that he was fraudulently induced to enter into an employment agreement with sale representations made by Morrison and Gardner. At trial, a jury ruled in favor of Lacagnina claims for fraud, breach of contract, and breach of the covenant of good faith and fair dealing. The trial court granted defendants' judgment notwithstanding the verdict on the fraud claim because Lacagnina was not harmed by the alleged fraud.

**DISCUSSION**

The Court of Appeal for the First District, affirmed in part, reversed in part, and remanded. The court found that employers cannot induce employees to sign an employment agreement by intentionally making compensation promises it does not intend to honor. Comprehend's argued that Lacagnina could not have been harmed by any intentional misrepresentation because he was always an "at-will" employee and could have been let go for any reason. Lacagnina argued that he would not have signed the amended agreement had he known the true facts. Those facts being that Comprehend was using him to set up their sale practice and then let him go. The Court found that the "the availability of remedies for such fraudulent inducement in the employment law context is well established" and cites several cases supporting its position.<sup>1</sup> The court reversed and remanded to the trial court to deny the judgment notwithstanding the verdict and enter a correct judgment for Lacagnina. Ultimately, an employer who induces an employee to contract by intentionally promising compensation terms the employer never intends to honor, will not avoid tort liability because of an "at-will" provision contained in the employment agreement.

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<sup>1</sup> (*Agosts v. Astor* (2004) 120 Cal.App.4th 596, 599) (*Moncada v. West Coast Quartz Corp.* (2013) 221 CalApp4th 768, 775-777)