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OEM Disclaimers Withstand Challenge in Helicopter Crash

Damage to helicopter from defective part constitutes excluded consequential damages

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On July 2, 2015, the U.S. District Court for the Eastern District of New York issued a decision in City of New York v. Bell Helicopter Textron, Inc., 13 CV 6848 *that left the plaintiff without any remedy against the manufacturers of a helicopter which crashed as a result of a defective engine.*

The plaintiff, the City of New York, entered into a contract in 2009 with Bell Helicopter Textron, Inc. to purchase a new Bell model 412 helicopter, equipped with a Pratt & Whitney Canada model engine. In September 2010, the helicopter purchased by the city was destroyed in a crash caused by a loss of power in the Pratt & Whitney engine, which was later determined to have been caused by a defective gear shaft in the engine.

The plaintiff commenced an action against Bell to recover the cost of the helicopter, later amending its claim to add Pratt & Whitney as a co-defendant. The city alleged breach of contract and breach of implied warranty. The District Court dismissed the plaintiff's claims against both Bell and Pratt & Whitney on the grounds that the claims were barred by the express terms of the relevant contracts, in particular the limited warranties and liability disclaimers contained in the agreements.

The Court found that the plaintiff had no remedy under its purchase contract with Bell Helicopter for three reasons: (1) The plaintiff's purchase contract with Bell contained no warranty for the helicopter engine (except for an assignment of the Pratt & Whitney engine warranty) and disclaimed all liability in contract and in tort in respect of the engine; (2) the contract limited the city's remedies to repair or replacement of the helicopter's parts, expressly excluding any remedy for incidental or consequential damages, which were defined broadly to include damage to the helicopter; and (3) the contract contained a clear and conspicuous disclaimer, in all capital letters, of all other express or implied warranties, including merchantability and fitness for a particular purpose.

The Court held that the plaintiff had no remedy under the engine warranty from Pratt & Whitney either. The engine warranty was similarly limited to an undertaking to repair or replace defective engine parts,

including resultant damage to the engine. But the engine warranty specifically excluded any remedy for special, incidental or consequential damages arising from a defect in the engine, including expenses incurred external to the engine.

The Court found that only the Pratt & Whitney warranty covered the accident, thereby limiting the city's damages to the repair or replacement of the engine. The cost of the resultant damage to the helicopter was the city's to bear alone.

The Court dismissed several other arguments brought by the city, including the claim that the limited remedy of the engine warranty was invalid because it failed its essential purpose. The Court rejected this argument on the basis that Pratt & Whitney had properly disclaimed warranties at the outset of the agreement. The Court pointed to N.Y. U.C.C. §2-719(l)(a), which permits parties to limit available remedies as they see fit, including limitations or exclusions of consequential damages, so long as this limitation or exclusion does not operate in an unconscionable manner.

The District Court's decision highlights the risk allocation that has become common in the industry, with OEMs taking liability only to repair or replace defective parts and hull casualty risk being separately insured by operators. It should be noted that this case in contract would not preclude theoretical tort liability to third parties, which cannot effectively be waived by contract. However, it illustrates the bounds of consequential damages and the binding effect of related disclaimers, which can often be overlooked as boilerplate.

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