

Insurance Agent May Lawfully Use Fraudulent Statements To Terminate At-Will Agency Agreement

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In a December 21, 2007 decision, *Bernard v. State Farm Mutual Automobile Insurance Company*, the California Court of Appeal held that an insurance agency acted lawfully when it used false statements to induce a long-time agent to end his relationship with the company. Bernard had been a State Farm agent since 1974. In 1995, he suffered a serious car accident, which left him unable to sit at a computer for long periods of time. He alleged that his supervisors falsely told him that he could not fulfill his responsibilities under his agency agreement with State Farm, unless he personally took photographs, input application information into the computer, and transmitted applications electronically to State Farm. State Farm notified Bernard that his “continued inability to perform the essential duties of his occupation¹ will leave us no choice but to exercise our right to terminate the Agent’s Agreement.”

In reality, State Farm’s internal guidelines would have allowed Bernard to use one of his employees to carry out the tasks that his disability prevented him from performing. Yet in reliance on State Farm’s misrepresentations, Bernard believed that he had no alternative except to terminate his agency agreement. When he learned the truth, Bernard sued State Farm for fraud, breach of contract, and breach of the implied covenant of good faith and fair dealing. The trial court rejected Bernard’s claims and Bernard appealed.

The appellate court affirmed the trial court’s ruling. It concluded that State Farm could not be held liable for breach of contract or fraud, because State Farm’s agency agreement with Bernard expressly gave State Farm the right to terminate the agreement at any time for any reason. As a result, the appellate court reasoned, State Farm “simply employed a falsehood to do what it otherwise could have accomplished directly: unilaterally terminate Bernard’s agency agreement.” Further, because State Farm intended to terminate Bernard’s agreement if he did not do so, “Bernard cannot be said to have relied to his detriment on State Farm’s misrepresentation.”

Finally, the appellate court determined that there was no merit to Bernard’s claim that State Farm had breached the implied covenant of good faith and fair dealing in his agency agreement. The appellate court explained that the covenant “is implied in every contract to insure that the benefits expressed in the contract are achieved.” Yet because the agency agreement expressly entitled State Farm to terminate the agreement at any time, Bernard could not use on the implied covenant of good faith and fair dealing to contradict this provision.

As the *Bernard* decision illustrates, parties to independent contractor agreements and other long-term agreements can substantially reduce their litigation risks by including provisions making clear the conditions under which they can end the agreements.