

Contracting to Avoid Tort-Based Punitive Damages Awards

While the rule denying the award of “punitive” or “exemplary” damages for breach of contract is subject to certain limited exceptions, it appears to enjoy wide-spread acceptance in most states and in virtually all common-law countries, according to **Glenn West**, writing in Weil, Gotshal & Manges’ **Global Private Equity Watch**.

But one of the well-recognized exceptions that can sometimes threaten to swallow the rule is that which permits punitive or exemplary damages anytime ‘the conduct constituting the breach is also a tort for which punitive damages are recoverable.’ And a ‘dog’s breakfast of tort-based fraud claims can frequently accompany a breach of contract claim.” West writes.

He discusses the case of *Bombardier Aerospace Corp. v. SPEP Aircraft Holdings, LLC*, in which the Texas Supreme Court upheld the liability-limiting provisions waiving punitive damages, even for fraud.

Read the article.