

Source-of-Duty Rule May Apply to Bar Fraud Claim Inextricably Entwined with Contractual Duties

“If you sue someone for fraud, you can win punitive damages in addition to regular compensatory damages,” explains Lee E. Berlik in Berlik Law’s *Contracts*.

“If you’re suing only for breach of contract, punitive damages are a no-go. As punitive damages can add up to \$350,000 to the value of the plaintiff’s claim, plaintiffs naturally try to add fraud claims to their breach-of-contract lawsuits whenever possible. The “source of duty” rule, however, limits the circumstances under which plaintiffs can pursue such a strategy. The rule provides that tort claims (like fraud) can only be pursued if the source of the duty allegedly breached is the common law and not a contract entered into between the parties. The Virginia Supreme Court has clarified in recent years that if a fraudulent misrepresentation is made within a contract, the plaintiff is limited to contract remedies, but if a misrepresentation is made for the purpose of inducing another party to enter into a contract, a separate fraud claim can be pursued.”

Read the article.