

Commercial Litigation Insights: Don't Hide Behind the Messenger – ONCA Upholds Judgment Despite Intermediary Conveying Fraudster's False Messages

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By Jessica Stansfield

The Ontario Court of Appeal recently upheld a summary judgment finding several defendants^[1] liable for civil fraud, in relation to a \$3.2 million warranty repair scheme.^[2] Notably, liability was upheld despite an intermediary conveying each fraudulent message on behalf of the defendants.

The fraudulent scheme involved the defendant corporation, Eaton Equipment Ltd. ("Eaton"), claiming to have repaired products purchased from the plaintiff, Canadian Tire Corp. ("CTC"), that were under warranty and for which CTC would reimburse Eaton for making the repairs. Eaton submitted over 27,000 receipts to CTC, which appeared to be for products purchased by CTC customers that had been returned to Eaton for repairs. However, on summary judgment, only 135 receipts were found to be related to genuine customer purchases.^[3] Eaton reportedly hired a graphic designer to create the false receipts, using customer data scraped from the internet, which would accompany Eaton's invoices for repairs allegedly completed.^[4] CTC later became concerned about irregularities in Eaton's invoices and supporting receipts.^[5]

On appeal, Eaton and its principal sought to set aside the civil fraud finding on the basis that CTC was not acting on the misrepresentations of Eaton, but rather on misrepresentations made by an intermediary.^[6] The underpinning of the appellants' position was that Eaton provided the fake receipts along with fraudulent invoices to an intermediary company that would deliver the documents to CTC and collect payment from CTC on Eaton's behalf.^[7] The Court of Appeal unequivocally rejected this argument on the basis that the intermediary was "merely a conduit through which representations and payments flowed".^[8] While the intermediary was the *messenger*, "the messages – fraudulent repair claims – were directly attributable to Eaton"^[9] and Eaton intended the messages to be conveyed to and relied on by CTC.^[10]

The Court of Appeal applied the civil fraud test in a common sense manner to avoid what would have been an absurdity – if the author of fraudulent invoices had been allowed to escape liability because he structured the scheme with an intermediary passing on the false representations. The Court of Appeal's decision makes clear that fraudsters cannot avoid liability by hiding behind a mere messenger.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice

^[1] The Court of Appeal allowed the appeal with respect to the finding of fraud against only one of the defendants.

[2] *Canadian Tire Corporation, Limited v. Eaton Equipment Ltd.*, [2025 ONCA 720 \(CanLII\)](#) [**CTC v. Eaton**].

[3] *CTC v. Eaton*, paras 1 and 7.

[4] *CTC v. Eaton*, paras 7 and 8.

[5] *CTC v. Eaton*, para 9.

[6] *CTC v. Eaton*, para 14.

[7] *CTC v. Eaton*, paras 6, 7, and 14.

[8] *CTC v. Eaton*, para 15.

[9] *CTC v. Eaton*, para 15.

[10] *CTC v. Eaton*, para 16.

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