

Verdicts & Settlements

Business seller contends breach of contract

He claims buyer adjusted numbers in order to lower earn-out amounts owed

\$7.45 million

In a confidential settlement, the plaintiff, a seller of a business, engaged in a pre-suit facilitation of a contract dispute. The claimant sold his business approximately two years prior for several million dollars.

The contract between seller and defendant buyer included a provision that required the buying entity to pay the seller a certain percentage of earnings before interest, taxes, depreciation and amortization.

The seller claimed that the buyer was manipulating the financial performance of the company to arbitrarily lower EBITDA and, hence, the earn-out amounts due to the seller. Seller threatened suit for breach of contract.

The parties agreed to facilitate and settled their dispute for a payment of \$7.45 million to the seller.



HONIGMAN



MANTESE

Type of action: Breach of contract

Type of injuries: Consequential contract damages

Name of case: Confidential

Court/Case no./Date: Confidential; confidential; May 2, 2013

Name of judge: Withheld

Settlement amount: \$7.45 million

Insurance carrier(s): Withheld

Attorneys for plaintiff: David M. Honigman, Gerard V. Mantese

Attorney(s) for defendant: Withheld