

Title: Beyond the Hype – BSKyB Changes Nothing

Article From: NEARSHORE Journal

Author: Gary S. Greenstein, Esq.

For hundreds of years contract law has been clear – fraud is outside the bounds of a contract. If you commit fraud, you will not be protected by a contractual provision that limits liability for direct damages or excludes indirect damages.

The recent ruling against EDS on a claim of fraudulent representation has shocked many in the outsourcing community. The shock comes from the bursting of the erroneous presumption that companies would only be liable for breaching explicit provisions in the contract, and upon such a breach that damages would be capped at the amount in the contract. This presumption is contrary to well established contract law.