

Susman Godfrey Secures Final Judgment of Nearly \$40M for Repeat Precision in Diamondback Industries Lawsuit Victory

Susman Godfrey LLP has won a final judgment of nearly \$40 million for client Repeat Precision, LLC, which was the target of a fraud and breach of contract lawsuit, among other claims, brought by Diamondback Industries, Inc. On April 3, 2020, the U.S. District Court for the Western District of Texas awarded a total of nearly \$40 million to Repeat Precision, almost \$23 million of which constitutes enhanced and exemplary damages due to the exceptional nature of the case. The court separately awarded Repeat Precision its reasonable attorneys' fees.

"This final judgment provides full vindication for our client in a lawsuit in which they were the defendants but were actually the harmed party," said Susman Godfrey partner [Trey Peacock](#). "Diamondback's actions against Repeat Precision were a willful disregard of their contractual obligations, and their case was wholly meritless. It is gratifying to see the court recognize that."

The case arose out of a licensing agreement signed in early 2018 between Diamondback and Repeat Precision, which was amended in June 2018. It granted Repeat Precision exclusive rights to Diamondback's patent (No. 9,810,035) on disposable setting tool technology used in fracking operations. This allowed Repeat Precision to sell the technology on a standalone basis as well as in combination with Repeat Precision's frac plug. Significantly, the agreement gave Repeat Precision exclusive rights to the patent and barred others, including Diamondback itself, from selling disposable setting tools.

In violation of the agreement, Diamondback continued to sell the product, asserting that it had the right under the license. Diamondback then filed suit seeking to void the contract, claiming, among other things, fraud, theft of trade secrets, and breach of contract by Repeat Precision. For its part, Repeat Precision filed counterclaims alleging, among other things, patent infringement, breach of contract, antitrust violations, and tortious interference.

In his decision issued following a three-day bench trial, U.S. District Court Judge Alan D. Albright rejected Diamondback's case and dismissed all of its claims with prejudice. As to the dismissal of Diamondback's fraud theories, Judge Albright specifically found "that those claims lack[ed] merit" and referenced, in part, a detailed direct examination of Repeat Precision president Grant Martin by Susman Godfrey associate [Krisina Zuñiga](#).

"It was a privilege trying a case alongside this amazingly talented team and a great joy to deliver this win to our client," said Zuñiga.

"To an overwhelming degree, the credibility and evidence stacked up in favor of Repeat Precision and all-but-crumbled against Diamondback," Judge Albright wrote. He went on to note that Diamondback CEO Derrek Drury's credibility "was shredded on cross-examination," which was conducted by Susman Godfrey partner [Shawn L. Raymond](#).

That lack of credibility played a direct role in the amount and type of damages awarded to Repeat Precision. Judge Albright's decision, which awarded enhanced damages, exemplary damages, and Repeat Precision's reasonable attorneys' fees, noted that "there are a myriad of reasons why enhanced damages are appropriate here, starting with the fact that Diamondback's conduct was willful."

"Even before we went to trial, Diamondback was having to walk back its claims and willingly abandoned many," said Peacock. "The ones it chose to pursue were soon revealed to be just as baseless."

The Susman Godfrey trial team consisted of Peacock, Raymond, and Zuñiga. Locke Lorde LLP partner W. Scott Hastings and associate Anna Finger also represented Repeat Precision.