

## Carter Ledyard Wins Summary Judgment Enforcing Merchant Cash Advance Agreement, Overruling Usury Defense

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Spin Capital LLC, a Carter Ledyard client, is entitled to summary judgment granting two breach of contract claims against merchant cash advance (MCA) customers for almost \$1.4 million in damages, ruled Commercial Division Justice J. Scott Odorisi in a recent decision, *Spin Capital v. Texas Medical Center Supply LLC*.

The court overruled the customers' defense that the MCA agreement was allegedly a loan to which New York's usury cap on interest rates applies. The court ruled that the argument was contrary to binding case law from New York's intermediate appellate court, which held that an MCA agreement is not a loan subject to such regulations, and rejected the customers' arguments that recent caselaw from federal courts that ruled against other unrelated parties (who used different contract forms) should change the analysis concerning Spin Capital's contract. It further rejected claims by the customer that Spin Capital had only purchased the customers' receivables from a single, allegedly failed government contract, rather than all of the businesses' general receivables.

The court subsequently entered an order granting Spin Capital's application for an award of the attorneys' fees incurred in the action, to be entered as a judgment against the customers.

Carter Ledyard counsel, Jacob H. Nemon, represented Spin Capital.

### related professionals

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