

Contracts
Commerce & Industry Insurance Co v. Bayer Corp

433 Mass. 388, 742 N.E.2d 567 (2001)

Keyword Subject

Agreement, Arbitration

Facts

Defendant (Bayer Corp) sold nylon "tow" (bulk fiber) to Malden Mills (a textile manufacturer). In December of 1995, a fire and subsequent explosion destroyed several Malden Mill's buildings and insurance began filing suits against multiple of the suppliers, including Defendant. Defendant had sold the tow to Malden Mills via a telephone order followed by a standard form purchase order. On the reverse side of the purchase order, the terms and conditions stated "Any controversy arising out of or related to this contract shall be settled by arbitration. . . This purchase order represents the entire agreement between both parties, notwithstanding any Seller's order form, whether sent before or after the sending of this purchase order, and this document cannot be modified except in writing and signed by an authorized representative of the buyer"

Procedural History

Trial Court: Defendant seeks motion to compel

Appeals: Motion to compel denied

Supreme: Affirmed (Remanded to lower court)

Issue

Holding:

Principle

Reasoning

Separate Opinions

Notes