

## What is Civil Fraud?

**(November 29, 2012):** Civil fraud cases are complex and can have substantial effects on your business and on your personal assets.

### Definition of Civil Fraud

[Merriam-Webster](#) defines fraud as:

*a*: deceit, trickery; *specifically* : intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right

*b* : an act of deceiving or misrepresenting:



Fraud is founded upon a misrepresentation of past or present fact. Courts have defined fraud as trickery, deceit, intentional misrepresentation, concealment, or nondisclosure for the purpose of inducing another to part with something of value. It also includes false representation of a matter of fact by words or conduct or by the concealment of what should have been disclosed that deceives or is intended to deceive another so he shall act upon it to his legal injury. See *In re E.P.*, 185 S.W.3d 908 (Tex. App. Austin 2006).

### Elements of Civil Fraud

The elements or actions that are common to most legal definitions of fraud are:

- 1. There was a material representation made that was false;**
- 2. The person who made the representation knew the representation was false or made it recklessly as a positive assertion without any knowledge of its truth;**
- 3. The person who made the representation intended to induce another to act upon the representation; and**
- 4. The person to whom the material representation was made actually and justifiably relied on the representation, which caused the injury. See *Ernst & Young, L.L.P. v. Pac. Mut. Life Ins. Co.*, 51 S.W.3d 573, 577 (Tex. 2001)**

However, courts have broadly defined the elements of civil fraud in various situations and there is no single definition that covers civil fraud entirely. There are laws passed by the legislature that define fraud. Courts of law have provided common law definitions of fraud. There are actions for negligent misrepresentation, a cause of action which is similar to fraud. Fraud by itself is not a fact but rather a conclusion that is reached after the facts of the relationship or transaction complained of have been reviewed.

The above comments on fraud are not inclusive and there are exceptions and other considerations to review to determine if civil fraud has occurred. Whenever you feel you have suffered a legal wrong

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because someone has misrepresented a fact to you, it is recommended you take action and consult with an attorney to determine if you have a valid claim.



**Leonard Schneider and other Liles Parker attorneys have extensive experience in business litigation, civil fraud matters, contract review and drafting. Call 1 (800) 475-1906 today for a free consultation.**