JAMS Institute

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ADR Case Update – 2024 – 2

Federal Courts

- **DISPUTE OUTSIDE SCOPE OF ARBITRATION AGREEMENT**

  Vaughn v JP Morgan Chase & Co.
  United States District Court, D. Colorado
  2023 WL 8702090
  December 15, 2023

  Chase bank account holder Jeanetta Vaughn was seated in the lobby of her local Chase branch when a Chase employee questioned her right to be there, accused her of rudeness, and called the police. Vaughn sued Chase for racial discrimination, defamation, and negligent infliction of emotional distress. Chase moved to compel arbitration under the arbitration provision in Vaughn's Deposit Account Agreement, which applied to "any dispute relating in any way" to Vaughn's "account or transactions."

  The United States District Court, D. Colorado, denied the motion to compel. Vaughn's claims fell outside the scope of the arbitration provision. The dispute arose from an incident in the bank lobby and had "little or nothing to do with Plaintiff's Chase account, the terms of the Deposit Account Agreement, or the parties' relationship."

- **AWARD SHOWED NO MANIFEST DISREGARD FOR THE LAW**

  Construction Council 175, Utility Workers of America, AFL-CIO v New York Paving, Inc.
  United States District Court, E.D. New York
  2023 WL 8826771
  December 21, 2023

  For over thirty years, NY Paving used six-person crews on paving jobs even though the governing CBA required ten-person crews. In 2018, the Union invoked a grievance against NY Paving for violating the CBA, and the parties went to arbitration. NY Paving argued that the crew size provision should not be enforced because 1) the "past practice" of allowing six-person crews negated the CBA's terms and waived the Union's arbitration rights, and 2) under the CBA's "most favored nation" clause, NY Paving was entitled to use smaller crew sizes because its competitors were permitted to do so. The arbitrator held NY Paving liable for breaching the CBA. Past practices, the arbitrator found, did not justify breach of the "clear contract language," and NY Paving failed to provide sufficient evidence that competitors consistently used smaller crew sizes. The Union petitioned to confirm the award, and NY Paving cross-petitioned to vacate.

The United States District Court, E.D. New York, confirmed the award. Emphasizing that the standard of review for arbitration awards was "among the most deferential in the law," the Court held that the award showed no manifest disregard for the law. Rather, the arbitrator gave "thorough" and "thoughtful" consideration to witness testimony and to NY Paving's legal arguments.

Missouri

- **ARBITRATION RIGHTS WAIVED**

GFS, II, LLC v Carson
Missouri Court of Appeals, Western District
2023 WL 8588316
December 12, 2023

Creditor GFS filed a debt collection against car purchaser Janelle Carson, and Carson counterclaimed for breach of express and implied warranties. For sixteen months, the parties proceeded in litigation, including "substantial discovery" and four case management trials. At the parties' joint request, the court set the date for a five-day trial. Three weeks before the trial date, GFS, represented by new counsel, claimed to have "discovered" the Arbitration Agreement in Carson's Purchase Contract and moved to compel arbitration. The court denied the motion. Unpersuaded by GFS's "discovery" claim -- as the Purchase Contract had been attached to GFS's complaint -- the court held that GFS had waived its arbitration rights. GFS appealed.

The Missouri Court of Appeals, Western District, affirmed. The court rejected GFS's claim that waiver was an issue for the arbitrator under the Arbitration Agreement's delegation clause. Waiver is a "run-of-the-mill" procedural issue akin to timing and pleading requirements, to be determined by the court. GFS's initial complaint did not constitute waiver, as the Arbitration Agreement contained several "anti-waiver" provisions allowing the parties to seek non-arbitral remedies. Carson's counterclaims, however, were not exempt, and GFS's arbitration rights accrued when Carson filed her answer and counterclaims. GFS's actions subsequent to the counterclaims – including its failure to reference its arbitration rights in responding to the counterclaims, pursuing sixteen months of litigation, and, particularly, requesting jury trial – were "flatly inconsistent" with its later arbitration demand.

New York

- **REMANDED FOR FRAMED-ISSUE HEARING**

In re: Standard Fire Insurance Company v Sanchez
Supreme Court, Appellate Division, Second Department, New York
2023 WL 8609023

December 13, 2023

Following an accident in which Tyree White's vehicle was struck by a vehicle driven by Shabazz Dozier, White commenced arbitration for uninsured motorist benefits against Standard Fire Insurance (Insurer). Insurer petitioned to permanently stay the arbitration or, alternatively, to temporarily stay arbitration pending a framed-issue hearing and for joinder of Dozier and two additional insurance companies. White, in opposition, raised an issue of fact as to whether Dozier's vehicle was insured at the time of the accident. The court, without hearing, granted the petition to permanently stay arbitration. White appealed.

Supreme Court, Appellate Division, Second Department, New York reversed. The court erred in granting a permanent stay because White's opposition raised an issue of fact. The Court remanded the case, directing the lower court to temporarily stay the arbitration and conduct a framed-issue hearing to determine whether Dozier's vehicle was insured at the time of the accident.

Washington

- **TRIAL DE NOVO REQUEST FAILED TO COMPLY WITH STATUTORY REQUIREMENTS**

Crossroads Management, LLC v Ridgway
2023 WL 8816734
Supreme Court of Washington
December 21, 2023

During settlement negotiations in a security deposit dispute, Landlords offered to settle for the full amount of the security deposit, as well as the Tenants' attorney's fees and costs, for a total of $2,800. Tenants refused, and the parties went to arbitration. The arbitrator awarded Tenants $1,695 and, because the award did not exceed the refused settlement offer, awarded Landlords more than $14,000 in attorney's fees and costs consistent with the governing small claims statute.

Tenants requested a trial de novo but, because they used an outdated form, failed to provide personal signatures as required by RCW § 7.06.050 and Superior Court Civil Arbitration Rule (SCCAR) § 7.1. The court allowed the motion. Citing issues with the county's problematic online filing system and the lingering impacts of COVID-19, the court deemed Tenants in "substantial compliance" with the rules because they had made a timely, good-faith effort. The court confirmed the awards to both parties, adding additional attorney's fees to Landlords for the trial de novo. The Court of Appeals reversed, holding that Tenants' trial request was ineffective. Tenants petitioned for and were granted review.

The Supreme Court of Washington affirmed. The court below erred in waiving the signature requirement. The plain language of RCW § 7.06.050 and SCCAR § 7.1 dictates that a valid trial de novo request requires the aggrieved party's personal signature. Washington case law mandates strict compliance with the SCCARs, and the court below

lacked authority to suspend the rules for equitable or other reasons. The Court remanded the case, however, for the lower court to consider whether Landlords or Tenants were the "prevailing parties" for purposes of awarding attorney's fees.

Case research and summaries by Deirdre McCarthy Gallagher and Rene Todd Maddox.

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