NEBRASKA SUPREME COURT

Heineman v. Evangelical Luth. Good Sam. Soc.

300 Neb. 187 (2018) · No. No. S-17-983 · Decided June 8, 2018

SUMMARY

The Nebraska Supreme Court held that a nursing home admission agreement containing an arbitration clause was valid and enforceable. Because the agreement involved interstate commerce, the Federal Arbitration Act governed and preempted inconsistent state-law requirements applicable solely to arbitration provisions. The court also rejected a public-policy challenge based on a federal regulation that was enacted after the agreement and had been enjoined, reversing and remanding with directions to compel arbitration and either stay or dismiss the action.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Cassel, J.; Heavican, C.J.; Stacy, J.; Funke, J.; Papik, J.; Schreiner, District Judge
JURISDICTION	Nebraska
DECIDED	June 8, 2018
DOCKET	No. S-17-983
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The defendants appealed from the district court's order denying their motions to dismiss or stay the action and compel arbitration under an arbitration agreement signed before the plaintiff's nursing home admission.
STANDARD OF REVIEW	Arbitrability is a question of law reviewed independently of the lower court's conclusions. The appellate court generally does not review evidence not presented to the trial court, and evidence not included in a bill of exceptions may not be considered.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; binding precedent in Nebraska.
PARTIES	The Evangelical Lutheran Good Samaritan Society, doing business as Good Samaritan Society-Scribner, et al. v. Mark Heineman

TOPICS

arbitration nursing home liability federalism contracts appellate procedure

PRACTICE AREAS

Arbitration Contracts Nursing home liability Federal preemption Appellate procedure

QUESTIONS PRESENTED

1. Whether the arbitration agreement was unenforceable for lack of mutuality of obligation or consideration.
2. Whether the arbitration agreement involved interstate commerce and was governed by the Federal Arbitration Act rather than Nebraska's Uniform Arbitration Act.
3. Whether the Federal Arbitration Act preempted Nebraska requirements that the arbitration agreement strictly comply with the Uniform Arbitration Act.
4. Whether a federal nursing-home regulation effective after the agreement was signed rendered the agreement void as contrary to public policy.
5. Whether the defendants were entitled to an order compelling arbitration and whether the underlying action should be dismissed or stayed.

HOLDINGS

1. The arbitration agreement was supported by sufficient consideration and did not fail for lack of mutuality of obligation because its language applied equally to claims brought by Heineman and by the nursing home.
2. The Federal Arbitration Act governed the arbitration agreement because the contract involved interstate commerce.
3. The arbitration agreement did not need to strictly comply with the language of Nebraska's Uniform Arbitration Act because the FAA preempted inconsistent state laws applying solely to the enforceability of arbitration provisions in contracts involving commerce.
4. The federal nursing-home regulation did not invalidate the arbitration agreement because it became effective after the agreement was signed, did not require retroactive application, and had been enjoined from implementation.

KEY QUOTATIONS

> *"Consideration is sufficient to support a contract if there is any detriment to the promisee or any benefit to the promisor."* (192)

> *"Because the FAA, at 9 U.S.C. § 2 (2012), preempts inconsistent state laws that apply solely to the enforceability of arbitration provisions in contracts evidencing a transaction involving commerce, the arbitration agreement did not need to strictly comply with the language of the UAA."* (193)

FACTUAL BACKGROUND

Mark Heineman, a Nebraska resident, sued The Evangelical Lutheran Good Samaritan Society, a North Dakota nonprofit corporation with its principal place of business in South Dakota, and several employees for personal injuries allegedly sustained while he was a resident at a Nebraska nursing home. Before admission, Heineman signed an agreement allowing him to opt into arbitration and checked the option agreeing to arbitrate disputes. The agreement stated that arbitration was not a condition of admission or continued stay, applied to claims by both parties, and was governed by the Federal Arbitration Act.

PROCEDURAL HISTORY

Mark Heineman filed a personal injury action against the nursing home and several employees. The district court held hearings on the defendants' motions, declared the arbitration agreement void and unenforceable for lack of mutuality of obligation, failure to comply with Nebraska's Uniform Arbitration Act, and public policy concerns, and overruled the motions. The Nebraska Supreme Court moved the appeal to its docket, reversed, and remanded with directions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Enter an order compelling arbitration pursuant to the agreement and either dismissing or staying the action, in the district court's discretion.

CASES CITED

- De Los Santos v. Great Western Sugar Co., 217 Neb. 282, 348 N.W.2d 842 (1984)
- Citizens of Humanity v. Applied Underwriters, 299 Neb. 545, 909 N.W.2d 614 (2018)
- Frohberg Elec. Co. v. Grossenburg Implement, 297 Neb. 356, 900 N.W.2d 32 (2017)
- U.S. v. Oatman, 702 Fed. Appx. 478 (8th Cir. 2017)
- In re Estate of Radford, 297 Neb. 748, 901 N.W.2d 261 (2017)
- Pennfield Oil Co. v. Winstrom, 276 Neb. 123, 752 N.W.2d 588 (2008)
- Jessen v. Jessen, 259 Neb. 644, 611 N.W.2d 834 (2000)
- City of Omaha v. City of Elkhorn, 276 Neb. 70, 752 N.W.2d 137 (2008)
- Wilczewski v. Charter West Nat. Bank, 295 Neb. 254, 889 N.W.2d 63 (2016)
- Kremer v. Rural Community Ins. Co., 280 Neb. 591, 788 N.W.2d 538 (2010)
- Bowen v. Georgetown University Hospital, 488 U.S. 204, 208, 109 S. Ct. 468, 102 L. Ed. 2d 493 (1988)
- American Health Care Association v. Burwell, 217 F. Supp. 3d 921 (N.D. Miss. 2016), appeal dismissed, ___ F.3d ___ (5th Cir. June 2, 2017)