

SUPREME COURT OF CALIFORNIA

Sonic-Calabasas A, Inc. v. Moreno

51 Cal. 4th 659 (2011) · No. S174475 · Decided February 24, 2011

SUMMARY

The California Supreme Court considered whether an employment arbitration agreement could require an employee to waive the statutory right to pursue a Berman wage hearing before the Labor Commissioner. The court held that a prehearing waiver is contrary to public policy and unconscionable, while allowing arbitration after a Berman hearing. It also concluded that this rule was not preempted by the Federal Arbitration Act.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Moreno; Kennard; Werdegarr; George
JURISDICTION	California
DECIDED	February 24, 2011
DOCKET	S174475
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from Court of Appeal judgment reversing superior court order denying petition to compel arbitration.
STANDARD OF REVIEW	De novo review of legal questions regarding unconscionability and public policy.
PRECEDENTIAL VALUE	Published
PARTIES	Sonic-Calabasas A, Inc. v. Frank Moreno

TOPICS

- employment arbitration
- wage and hour
- unconscionability
- employment law
- administrative law
- statutory interpretation

PRACTICE AREAS

- Employment Law
- Arbitration

QUESTIONS PRESENTED

1. Whether a provision in an arbitration agreement requiring waiver of the option of a Berman hearing is contrary to public policy and unconscionable.
2. Whether a state law rule invalidating such a waiver is preempted by the Federal Arbitration Act.

HOLDINGS

1. A predispute waiver of a Berman hearing in an arbitration agreement is contrary to public policy and unconscionable.
2. Arbitration agreements may be enforced after a Berman hearing has taken place; the appeal from a Berman hearing may be made to arbitration pursuant to a valid arbitration agreement.
3. The state law rule invalidating Berman waivers is not preempted by the FAA.

KEY QUOTATIONS

“Under Labor Code section 98 et seq., an employee with a claim for unpaid wages has a right to seek an informal hearing in front of the Labor Commissioner, a so-called “Berman” hearing.” (at 669)

“The Berman hearing procedure is designed to provide a speedy, informal, and affordable method of resolving wage claims.” (at 672)

“We therefore conclude the Berman waiver at issue here is contrary to public policy.” (at 684)

“We conclude the waiver is markedly one sided and therefore substantively unconscionable.” (at 686)

“We therefore conclude our holding is not preempted by the FAA.” (at 695)

FACTUAL BACKGROUND

Frank Moreno was an employee of Sonic-Calabasas A, Inc., which owns an automobile dealership. As a condition of employment, Moreno signed an arbitration agreement requiring binding arbitration of all employment disputes, including wage claims, and waiving the right to a Berman hearing before the Labor Commissioner. After leaving employment, Moreno filed a wage claim with the Labor Commissioner for unpaid vacation pay. Sonic petitioned to compel arbitration, arguing the waiver was valid. The trial court denied the petition, citing Armendariz, and the Court of Appeal reversed, holding the waiver was not contrary to public policy.

PROCEDURAL HISTORY

Moreno filed a wage claim with the Labor Commissioner for unpaid vacation pay. Sonic petitioned to compel arbitration, arguing Moreno waived his right to a Berman hearing. The superior court denied the petition as premature, citing Armendariz. The Court of Appeal reversed, holding that a Berman waiver was not contrary to public policy. The California Supreme Court granted review.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reinstate the superior court's order denying the petition to compel arbitration as premature.

CASES CITED

- Armendariz v. Foundation Health Psychcare Services, Inc., 24 Cal. 4th 83 (2000)
- Gentry v. Superior Court, 42 Cal. 4th 443 (2007)
- Preston v. Ferrer, 552 U.S. 346 (2008)
- Perry v. Thomas, 482 U.S. 483 (1987)
- Buckeye Check Cashing, Inc. v. Cardegna, 546 U.S. 440 (2006)
- Prima Paint Corp. v. Flood & Conklin Mfg. Co., 388 U.S. 395 (1967)
- Southland Corp. v. Keating, 465 U.S. 1 (1984)
- Volt Info. Sciences v. Leland Stanford Jr. U., 489 U.S. 468 (1989)
- Discover Bank v. Superior Court, Discover Bank v. Superior Court, 36 Cal. 4th 148 (2005)
- Little v. Auto Stiegler, Inc., 29 Cal. 4th 1064 (2003)
- Cuadra v. Millan, 17 Cal. 4th 855 (1998)
- Samuels v. Mix, 22 Cal. 4th 1 (1999)
- Murphy v. Kenneth Cole Productions, Inc., 40 Cal. 4th 1094 (2007)
- Schatz v. Allen Matkins Leck Gamble & Mallory LLP, 45 Cal. 4th 557 (2009)
- Lolley v. Campbell, 28 Cal. 4th 367 (2002)
- Dawson v. Westerly Investigations, Inc., 204 Cal. App. Supp. 3d 20 (1988)
- Henry v. Amrol, Inc., 222 Cal. App. Supp. 3d 1 (1990)
- In re Trombley, 31 Cal. 2d 801 (1948)
- Kerr's Catering Service v. Department of Industrial Relations, 57 Cal. 2d 319 (1962)
- Suastez v. Plastic Dress-Up Co., 31 Cal. 3d 774 (1982)
- Ingle v. Circuit City Stores, Inc., 328 F.3d 1165 (9th Cir. 2003)
- A & M Produce Co. v. FMC Corp., 135 Cal. App. 3d 473 (1982)
- Board of Education v. Round Valley Teachers Assn., 13 Cal. 4th 269 (1996)
- Stolt-Nielsen S.A. v. AnimalFeeds International Corp., 559 U.S. 662 (2010)
- Cable Connection, Inc. v. DIRECTV, Inc., 44 Cal. 4th 1334 (2008)
- EEOC v. Waffle House, Inc., 534 U.S. 279 (2002)
- Mitsubishi Motors v. Soler Chrysler-Plymouth, 473 U.S. 614 (1985)
- Shearson/American Express, Inc. v. McMahon, 482 U.S. 220 (1987)
- Rodriguez de Quijas v. Shearson/Am. Exp., 490 U.S. 477 (1989)
- Wilko v. Swan, 346 U.S. 427 (1953)

- Gilmer v. Interstate/Johnson Lane Corp., 500 U.S. 20 (1991)
- Broughton v. Cigna Healthplans, 21 Cal. 4th 1066 (1999)
- Cruz v. PacifiCare Health Systems, Inc., 30 Cal. 4th 303 (2003)
- Moncharsh v. Heily & Blase, 3 Cal. 4th 1 (1992)
- Engalla v. Permanente Medical Group, Inc., 15 Cal. 4th 951 (1997)
- Vandenberg v. Superior Court, 21 Cal. 4th 815 (1999)
- Doers v. Golden Gate Bridge etc. Dist., 23 Cal. 3d 180 (1979)
- Stephens v. Southern Pacific Co., 109 Cal. 86 (1895)
- Bickel v. City of Piedmont, 16 Cal. 4th 1040 (1997)
- Sharon S. v. Superior Court, 31 Cal. 4th 417 (2003)
- Moses H. Cone Hospital v. Mercury Constr. Corp., 460 U.S. 1 (1983)
- Ruff v. Splice, 398 Ill. App. 3d 431 (2010)
- Carter v. SSC Odin Operating Co., LLC, 237 Ill. 2d 30 (2010)