SUPREME COURT OF UTAH

McCoy v. Blue Cross and Blue Shield of Utah

McCoy v. Blue Cross & Blue Shield of Utah, 20 P.3d 901 (Utah 2001) · No. No. 990692 · Decided March 30, 2001

SUMMARY

The Utah Supreme Court affirmed the denial of Blue Cross and Blue Shield of Utah's motion to compel arbitration. The court held that Blue Cross failed to provide direct and specific evidence that McCoy received the policy amendment adding a mandatory arbitration provision. The court also held that McCoy did not waive his right to contest arbitration because a later letter mentioning a right to seek arbitration did not establish that arbitration was mandatory.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Durrant, Justice; Howe, Chief Justice; Russon, Associate Chief Justice; Durham, Justice; Judkins, Justice; Clint S. Judkins, District Judge, sitting by designation
JURISDICTION	Utah
DECIDED	March 30, 2001
DOCKET	No. 990692
DISPOSITION	affirmed
PROCEDURAL POSTURE	On certiorari to the Utah Court of Appeals, Blue Cross sought review of the affirmance of the trial court's denial of its motion to compel arbitration.
STANDARD OF REVIEW	The Supreme Court reviewed de novo the legal correctness of the determination that the evidence was insufficient as a matter of law to require enforcement of the arbitration amendment. When evidence concerning the existence of an arbitration agreement is contested, the district court has discretion to resolve evidentiary conflicts and weigh the evidence.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Blue Cross and Blue Shield of Utah v. Gerald McCoy, individually and as personal representative of the Estate of Frieda McCoy

TOPICS

arbitration | health law | insurance | contracts | appellate procedure

PRACTICE AREAS

Insurance | Health law | Contracts | Arbitration | Civil procedure | Appellate procedure

QUESTIONS PRESENTED

1. Whether Blue Cross presented sufficient direct and specific evidence to establish that McCoy agreed to the mandatory arbitration amendment.
2. Whether McCoy waived his right to contest the arbitration provision by failing to invoke arbitration after receiving a benefits-denial letter that mentioned a right to seek arbitration.

HOLDINGS

1. A party seeking to compel arbitration must provide direct and specific evidence of an agreement to arbitrate between the particular parties. Evidence showing only that an insurer generally mailed an arbitration amendment to a large group of policyholders, without identifying the individual policyholder in the recorded evidence or establishing an actual mailing directed to that person, is insufficient.
2. A policyholder does not waive the right to contest a mandatory arbitration provision merely by failing to act after receiving a letter advising him that he had a right to seek arbitration, where the letter did not provide the amendment's text or notify him that arbitration was mandatory or exclusive.

KEY QUOTATIONS

> *"Because parties to binding arbitration waive substantial rights to formal public adjudication of their disputes, the Act demands, as a minimum threshold for its enforcement, direct and specific evidence of an agreement between the parties."* (20 P.3d at 905; ¶ 17)

> *"Its evidence described general procedures but did not establish any actual mailing, or even an attempt to mail, that was directed to McCoy personally."* (20 P.3d at 905; ¶ 18)

> *"It is one thing to advise a policyholder of a right to arbitration; it is quite another to notify a policyholder that arbitration is required."* (20 P.3d at 905-06; ¶ 20)

FACTUAL BACKGROUND

McCoy purchased a family health insurance policy from Blue Cross in 1985, before the policy contained an arbitration provision. Blue Cross later amended its policies to add mandatory arbitration and used a magnetic tape, printer, and mailing service to send notices to more than 30,000 policyholders, but retained neither the tape nor a verification list showing that McCoy was included. After Blue Cross denied payment for alternative cancer treatment for McCoy's wife, it sent a letter mentioning a right to seek arbitration; McCoy then filed suit.

PROCEDURAL HISTORY

McCoy sued Blue Cross in Utah district court after Blue Cross denied coverage for alternative cancer treatment for his wife. Blue Cross moved to compel arbitration based on an arbitration provision allegedly added to the health insurance policy. The district court denied the motion because Blue Cross did not present specific evidence that McCoy had been sent the amendment. The Utah Court of Appeals affirmed, and the Utah Supreme Court granted certiorari and affirmed the court of appeals.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The judgment of the Utah Court of Appeals was affirmed, and the case was remanded for further proceedings.

CASES CITED

- Jenkins v. Percival, 962 P.2d 796 (Utah 1998)
- Docutel Olivetti v. Dick Brady Sys. Inc., 731 P.2d 475 (Utah 1986)
- Valcarce v. Fitzgerald, 961 P.2d 305 (Utah 1998)
- Sosa v. Paulos, 924 P.2d 357 (Utah 1996)
- Allred v. Educators Mut. Ins. Ass'n, 909 P.2d 1263 (Utah 1996)
- Softsolutions, Inc. v. Brigham Young Univ., 2000 UT 46, 1 P.3d 1095
- Intermountain Power v. Union Pacific R.R., 961 P.2d 320 (Utah 1998)
- Buzas Baseball v. Salt Lake Trappers, 925 P.2d 941 (Utah 1996)
- Lindon City v. Engineers Constr. Co., 636 P.2d 1070 (Utah 1981)
- Reed v. Davis County Sch. Dist., 892 P.2d 1063 (Utah Ct. App. 1995)
- Geisdorf v. Doughty, 972 P.2d 67 (Utah 1998)
- Soter's, Inc. v. Deseret Fed. Sav. & Loan Ass'n, 857 P.2d 935 (Utah 1993)
- United States Fidelity and Guaranty Co. v. Sandt, 854 P.2d 519 (Utah 1993)
- McCoy v. Blue Cross & Blue Shield, 1999 UT App 199, 980 P.2d 694