NEBRASKA SUPREME COURT

Noah's Ark Processors, LLC v. UniFirst Corporation

310 Neb. 896 (2022) · No. No. S-21-086 · Decided February 11, 2022

SUMMARY

The Nebraska Supreme Court affirmed the dismissal of Noah’s Ark Processors’ complaint and directed it to participate in arbitration under a customer service agreement originally executed by UniFirst and another company. The court held that Noah’s Ark was equitably estopped from denying that it was bound by the agreement and its broad arbitration provision, and rejected its arguments concerning the scope of arbitration, pleading notice, waiver, and hearsay evidence.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Funke, J.; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	February 11, 2022
DOCKET	No. S-21-086
DISPOSITION	affirmed
PROCEDURAL POSTURE	Noah's Ark appealed from a Douglas County District Court judgment dismissing its declaratory complaint, determining that Noah's Ark was equitably estopped from denying that it was bound by a customer service agreement and its arbitration provision, lifting a stay of arbitration, and directing it to participate in arbitration.
STANDARD OF REVIEW	Whether proceedings should be stayed and arbitration required is a question of law reviewed independently. In an equity action, factual questions are reviewed de novo on the record, with possible weight given to the trial judge's credibility determinations when material evidence conflicts. Evidentiary rulings are reviewed for abuse of discretion; factual findings underlying hearsay rulings are reviewed for clear error and the ultimate hearsay determination de novo, except for residual-hearsay rulings. In a civil case, evidentiary error is reversible only if it unfairly prejudices a substantial right.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES	Noah's Ark Processors, LLC v. UniFirst Corporation

TOPICS

arbitration · appellate procedure · standard of review · hearsay · evidence

PRACTICE AREAS

arbitration · civil procedure · contracts · commercial litigation · evidence

QUESTIONS PRESENTED

1. Whether Noah's Ark was equitably estopped from denying that it was bound by the customer service agreement and its arbitration provision despite not signing the agreement.
2. Whether the parties' billing disputes fell outside the scope of the arbitration provision.
3. Whether UniFirst waived its right to arbitration.
4. Whether the equitable-estoppel defense was adequately pleaded and whether Noah's Ark received fair notice.
5. Whether the district court abused its discretion or otherwise committed reversible error by admitting challenged hearsay evidence.

HOLDINGS

1. Noah's Ark was equitably estopped from denying that it was bound by the customer service agreement and its arbitration provision because its conduct led UniFirst reasonably to believe that Prime remained the customer, Noah's Ark obtained benefits under the agreement, and UniFirst relied on that conduct to its detriment.
2. The arbitration provision unambiguously covered the parties' billing disputes because it broadly required arbitration of 'all disputes of whatever kind' between the customer and UniFirst.
3. UniFirst did not waive its right to arbitration.
4. The equitable-estoppel defense was adequately pleaded, and Noah's Ark received fair notice of it.
5. The district court did not abuse its discretion or commit reversible error by admitting the challenged statements and documents.

KEY QUOTATIONS

> *"[Noah's] cannot have it both ways. It cannot rely on the contract when it works to its advantage and ignore it when it works to its disadvantage."* (905)

> *"Enforcement of an arbitration agreement involves two analytical steps: The first is contract formation—whether the parties entered into any arbitration agreement at all. The second involves contract interpretation to determine whether this claim is covered by the arbitration agreement."* (906)

FACTUAL BACKGROUND

UniFirst and Nebraska Prime Group entered a customer service agreement in 2013 for uniforms and related services, including a broad arbitration clause covering all disputes between the customer and UniFirst. Noah's Ark acquired Prime's assets through foreclosure in 2014 and began operating the meatpacking plant on January 2, 2015, while UniFirst continued providing services under the existing agreement. Noah's Ark did not notify UniFirst of the change in ownership, continued receiving benefits and services, paid invoices, participated in communications concerning the agreement, and ultimately attempted to terminate the agreement for cause. UniFirst relied on this conduct by continuing and expanding its services before Noah's Ark disputed the agreement's applicability.

PROCEDURAL HISTORY

UniFirst initiated arbitration after Noah's Ark terminated the parties' business relationship. Noah's Ark filed a declaratory action asserting that it was not bound by the customer service agreement because it had not signed it and seeking a determination of amounts allegedly owed. The district court granted Noah's Ark summary judgment on ratification and successor-liability theories but denied summary judgment on equitable estoppel, conducted a bench trial, found equitable estoppel established, rejected waiver and pleading arguments, and ordered arbitration. The Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Amend v. Nebraska Pub. Serv. Comm., 298 Neb. 617, 905 N.W.2d 551 (2018)
- Good Samaritan Coffee Co. v. LaRue Distributing, 275 Neb. 674, 748 N.W.2d 367 (2008)
- State v. Nebraska Assn. of Pub. Employees, 239 Neb. 653, 477 N.W.2d 577 (1991)
- Omaha Police Union Local 101 v. City of Omaha, 292 Neb. 381, 872 N.W.2d 765 (2015)
- Rauscher v. City of Lincoln, 269 Neb. 267, 691 N.W.2d 844 (2005)
- Manker v. Manker, 263 Neb. 944, 644 N.W.2d 522 (2002)
- VKGS v. Planet Bingo, 309 Neb. 950, 962 N.W.2d 909 (2021)
- Perry v. Esch, 240 Neb. 289, 481 N.W.2d 431 (1992)
- Wheat Belt Pub. Power Dist. v. Batterman, 234 Neb. 589, 452 N.W.2d 49 (1990)
- Commerce Sav. Scottsbluff v. F.H. Schafer Elev., 231 Neb. 288, 436 N.W.2d 151 (1989)
- Osmera v. School Dist. of Seward, 216 Neb. 261, 343 N.W.2d 886 (1984)
- Cavanaugh v. deBaudiniere, 1 Neb. App. 204, 493 N.W.2d 197 (1992)
- PRM Energy Systems, Inc. v. Primenergy, L.L.C., 592 F.3d 830, 834 n.3 (8th Cir. 2010)
- Tepper Realty Company v. Mosaic Tile Company, 259 F. Supp. 688 (S.D.N.Y. 1966)
- American Ins. Co. v. Cazort, 316 Ark. 314, 871 S.W.2d 575 (1994)
- Cullinane v. Beverly Enters.-Neb., 300 Neb. 210, 224, 912 N.W.2d 774, 789 (2018)
- Arthur Andersen LLP v. Carlisle, Arthur Andersen LLP v. Carlisle, 556 U.S. 624, 129 S. Ct. 1896, 173 L. Ed. 2d 832 (2009)

- SFI Ltd. Partnership 8 v. Carroll, 288 Neb. 698, 851 N.W.2d 82 (2014)
- Eletech v. Conveyance Consulting Group, 308 Neb. 733, 956 N.W.2d 692 (2021)
- Eicher v. Mid America Fin. Invest. Corp., 270 Neb. 370, 702 N.W.2d 792 (2005)
- Baker-Heser v. State, 309 Neb. 979, 963 N.W.2d 59 (2021)
- Bump v. Firemens Ins. Co., 221 Neb. 678, 380 N.W.2d 268 (1986)
- O'Brien v. Cessna Aircraft Co., 298 Neb. 109, 903 N.W.2d 432 (2017)
