

COURT OF APPEALS OF OHIO, EIGHTH APPELLATE DISTRICT,
CUYAHOGA COUNTY

Yoby v. Cleveland

2025-Ohio-5853 (8th Dist. 2025) · No. 114890 · Decided December 31, 2025

SUMMARY

The Ohio Eighth District Court of Appeals affirmed the denial of the City of Cleveland’s motion to stay proceedings and compel arbitration in a class action involving electric-bill adjustments. The court held that the City could not unilaterally add a mandatory arbitration provision to the parties’ existing electric service agreements, and that appellees lacked adequate notice of the purported modification. The case was remanded for further proceedings.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
WRITING FOR THE COURT	Eileen T. Gallagher, J.; Michelle J. Sheehan, P.J.; Sean C. Gallagher, J.
JURISDICTION	Ohio Court of Appeals, Eighth Appellate District, Cuyahoga County
DECIDED	December 31, 2025
DOCKET	114890
DISPOSITION	affirmed_and_remanded
PROCEDURAL POSTURE	The City appealed the Cuyahoga County Court of Common Pleas' denial of its motion to stay proceedings and compel arbitration under R.C. Chapter 2711 and Cleveland Ordinance No. 472-2022.
STANDARD OF REVIEW	A motion to stay and compel arbitration is reviewed de novo, although factual findings made by the trial court are given deference.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion; precedential within the applicable Ohio appellate framework.
PARTIES	City of Cleveland, et al. v. Clint Yoby, et al.

TOPICS

- arbitration
- contract formation
- mutual assent
- municipal law
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the City established an enforceable agreement requiring appellees to arbitrate their pending claims.
2. Whether the change-in-terms provisions of the electric service agreement authorized the City to unilaterally add a mandatory arbitration provision.
3. Whether appellees received sufficient notice of the new arbitration term to establish acceptance and a meeting of the minds.
4. Whether *Pivonka v. Corcoran* required retroactive application of the Cleveland ordinance or deprived the common pleas court of jurisdiction.

HOLDINGS

1. The City did not establish a valid agreement to arbitrate the appellees' claims because the record did not show that appellees clearly agreed to the unilateral addition of the mandatory arbitration provision.
2. The original electric service agreement did not authorize the City to add a new mandatory arbitration provision through its provisions allowing amendments to rates, terms, conditions, rules, or regulations.
3. The City failed to provide sufficient notice of the arbitration provision, so appellees could not accept the modification or be bound by it.
4. *Pivonka v. Corcoran* did not control because it involved a statutory administrative remedy and no contractual arbitration agreement, whereas this case concerns the enforceability and formation of an arbitration term in an electric service agreement.

KEY QUOTATIONS

“arbitration is simply a matter of contract between the parties; it is a way to resolve disputes — but only those disputes — that the parties have agreed to submit to arbitration.” (§ 10)

“A party with a unilateral right to modify a contract does not have the right to make any kind of change it chooses.” (§ 20)

“Without sufficient notice of the unilateral modification of the ESA to add a new mandatory arbitration term, there was no meeting of the minds, and consequently, no binding agreement to arbitrate.” (§ 31)

FACTUAL BACKGROUND

Cleveland Public Power assessed environmental and ecological adjustments on customer electric bills from 1984 through 2013, generating approximately \$188 million in revenue, without separately identifying the adjustments on the bills. Customers filed a class action alleging breach of contract, fraud, declaratory-relief, injunction, and unjust-enrichment claims. While the action was pending, Cleveland enacted Ordinance No. 472-2022, which added a mandatory arbitration provision to the electric service agreement and purported to make the changes retroactive. The City attempted to compel arbitration, but the notice sent to customers did not identify the arbitration requirement, and some class members received no notice.

PROCEDURAL HISTORY

Plaintiffs filed a class action concerning Cleveland Public Power's assessment and disclosure of environmental and ecological adjustments on electric bills. In Yoby I, the trial court's summary judgment for the City was partially reversed and the matter was remanded. After the City enacted an ordinance adding a Cleveland Public Power arbitration panel and an arbitration term to the electric service agreement, it moved to stay the action and compel arbitration. Yoby II reversed and remanded for an evidentiary trial under R.C. 2711.03(B). Following a bench trial, the common pleas court denied arbitration, and the Eighth District affirmed and remanded for further proceedings.

DISPOSITION

affirmed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the common pleas court for further proceedings in the underlying action.

CASES CITED

- Yoby v. Cleveland, 2020-Ohio-3366 (8th Dist.)
- Yoby v. Cleveland, 2023-Ohio-2180 (8th Dist.)
- Pivonka v. Corcoran, 2020-Ohio-3476
- Pivonka v. Corcoran, 2024-Ohio-5318 (8th Dist.)
- Sebold v. Latina Design Build Group, L.L.C., 2021-Ohio-124, ¶ 8 (8th Dist.)
- Wisniewski v. Marek Builders, Inc., 2017-Ohio-1035, ¶ 5 (8th Dist.)
- McCaskey v. Sanford-Brown College, 2012-Ohio-1543 (8th Dist.)
- Gibbs v. Firefighters Community Credit Union, 2021-Ohio-2679, ¶ 13, ¶ 14, ¶ 18, ¶ 22 (8th Dist.)
- Taylor Bldg. Corp. of Am. v. Benfield, 2008-Ohio-938, ¶ 38
- Maestle v. Best Buy Co., 2005-Ohio-4120, ¶ 10, ¶ 20, ¶ 22, ¶ 24 (8th Dist.)
- First Options of Chicago, Inc. v. Kaplan, 514 U.S. 938, 943 (1995)
- Viking River Cruises, Inc. v. Moriana, 596 U.S. 639, 660 (2022)
- Lamps Plus, Inc. v. Varela, 587 U.S. 176, 177 (2019)
- Stolt-Nielsen, S.A. v. AnimalFeeds Internatl. Corp., 559 U.S. 662, 684 (2010)
- Academy of Medicine of Cincinnati v. Aetna Health, Inc., 2006-Ohio-657, ¶ 10-14
- Council of Smaller Ents. v. Gates, McDonald & Co., 80 Ohio St. 3d 661 (1998)
- Spalsbury v. Hunter Realty, Inc., 2000 Ohio App. LEXIS 5552 (8th Dist. Nov. 30, 2000)
- Henderson v. Lawyers Title Ins. Corp., 2004-Ohio-744 (8th Dist.)
- Seyfried v. O'Brien, 2017-Ohio-286, ¶ 19
- Rousseau v. Setjo, L.L.C., 2020-Ohio-5002, ¶ 8 (8th Dist.)
- Corl v. Thomas & King, 2006-Ohio-2956, ¶ 8 (10th Dist.)

- Benjamin v. Pipoly, 2003-Ohio-5666, ¶ 31 (10th Dist.)
- Convenient Food Mart, Inc. v. Countrywide Petroleum Co., 2005-Ohio-1994 (8th Dist.)
- Rudolph v. Wright Patt Credit Union, 2021-Ohio-2215, ¶ 33 (2d Dist.)
- Sevier Cty. Schools Fed. Credit Union v. Branch Banking & Trust Co., 990 F.3d 470, 479 (6th Cir. 2021)
- Follman v. World Fin. Network Natl. Bank, 721 F. Supp. 2d 158 (E.D.N.Y. 2010)
- Coleman v. Alaska USA Fed. Credit Union, 2020 U.S. Dist. LEXIS 3301 (D. Alaska Jan. 9, 2020)
- Knutson v. Sirius XM Radio Inc., 771 F.3d 559, 569 (9th Cir. 2014)
- Cobb v. Ironwood Country Club, 233 Cal. App. 4th 960, 966 (2015)
- Avery v. Integrated Healthcare Holdings, Inc., 218 Cal. App. 4th 50, 61 (2013)
- Peleg v. Neiman Marcus Group, Inc., 204 Cal. App. 4th 1425, 1465 (2012)

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