

SUPREME COURT OF WASHINGTON

Wiley v. Rehak

143 Wn. 2d 339 (2001) · Decided March 29, 2001

SUMMARY

The Washington Supreme Court held that a party seeking a trial de novo after mandatory arbitration must strictly comply with the requirement to file and serve a notice naming the aggrieved party within 20 days. Because the timely notice named only nonaggrieved parties, it was a nullity, and the court could not permit a later amendment adding the omitted party or allow relation back. The court also upheld an award of attorney fees against the party who failed to improve his position by not complying with the arbitration rules.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Ireland, J.; Alexander, C.J.; Smith, J.; Johnson, J.; Madsen, J.; Sanders, J.; Bridge, J.; Chambers, J.; Owens, J.
JURISDICTION	Washington
DECIDED	March 29, 2001
DISPOSITION	affirmed
PROCEDURAL POSTURE	Following a mandatory arbitration award finding Kevin Prueitt 100 percent at fault, the superior court permitted Prueitt to amend the Rehaks' notice for trial de novo to add his name and allowed relation back. The Court of Appeals reversed and remanded for entry of judgment on the arbitration award and awarded Wiley attorney fees. Prueitt sought review in the Washington Supreme Court.
STANDARD OF REVIEW	Interpretation and application of the mandatory arbitration rules present questions of law reviewed de novo. The superior court's decision permitting amendment was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential
PARTIES	Kevin Prueitt v. Leslie Wiley

TOPICS

- arbitration
- appellate procedure
- civil procedure
- attorney fees
- standard of review

PRACTICE AREAS

Civil procedure

Mandatory arbitration

Appellate procedure

Attorney fees

QUESTIONS PRESENTED

1. Whether a party omitted from a timely notice for trial de novo following mandatory arbitration may be added by amendment after the 20-day filing period has expired.
2. Whether the amendment may relate back to a notice filed by parties who were not aggrieved by the arbitration award.
3. Whether the Washington Civil Rules permit amendment or correction of a notice for trial de novo in a manner inconsistent with the mandatory arbitration rules.
4. Whether attorney fees may be awarded against a party who requested a trial de novo but failed to comply with MAR 7.1 and therefore did not proceed to trial.

HOLDINGS

1. A party seeking a trial de novo must be named in a notice filed and served within 20 days after the arbitration award is filed. An omitted party may not be added by an untimely amendment.
2. A notice for trial de novo filed by nonaggrieved parties is a nullity and cannot provide a valid filing date for an omitted aggrieved party's later amendment.
3. The Civil Rules cannot be applied to permit amendment or relation back of a notice for trial de novo when doing so conflicts with the mandatory arbitration rules.
4. Attorney fees may be awarded against a party who requests a trial de novo but fails to improve that party's position because the party failed to comply with the requirements for proceeding to a trial de novo.

KEY QUOTATIONS

“failure to strictly comply with MIAR 7.1(a)’s filing requirement prevents the superior court from conducting a trial de novo.” (143 Wn. 2d at 344)

“CR 60 cannot be used merely to circumvent the time constraints of other rules.” (143 Wn. 2d at 347)

“Since Nevers requires strict compliance with MAR 7.1’s requirement that an aggrieved party file within 20 days and Prueitt did not comply, his notice for trial de novo did not meet the standard.” (143 Wn. 2d at 349)

FACTUAL BACKGROUND

Leslie Wiley was injured in a two-car collision in Cowlitz County and sued the vehicle owner and later other defendants, including Kevin Prueitt, who had been driving the vehicle. After the case was transferred to mandatory arbitration, the arbitrator found Prueitt 100 percent at fault and awarded Wiley statutory attorney fees and costs. Frank and Dana Rehak filed a notice for trial de novo within 20 days, but they were not aggrieved parties; Prueitt was not named in the notice and did not file his own notice within the deadline.

PROCEDURAL HISTORY

Wiley sued arising from a vehicle collision and ultimately added Kevin Prueitt as a defendant. After mandatory arbitration, the arbitrator found Prueitt entirely at fault. Frank and Dana Rehak filed a timely notice for trial de novo, but neither was an aggrieved party; Prueitt was omitted from the notice and filed no timely notice of his own. The superior court permitted amendment and relation back, but the Court of Appeals reversed and remanded for judgment on the arbitration award. The Washington Supreme Court affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The Court of Appeals' decision reversing the superior court and remanding for judgment on the arbitration award was affirmed.

CASES CITED

- State v. Wittenbarger, 124 Wn. 2d 467, 484, 880 P.2d 517 (1994)
- Mee Soon Kim v. Pham, 95 Wn. App. 439, 441, 975 P.2d 544 (1999), review denied, 139 Wn. 2d 1009 (1999)
- Nevers v. Fireside, Inc., 133 Wn. 2d 804, 947 P.2d 721 (1997)
- Roberts v. Johnson, 137 Wn. 2d 84, 969 P.2d 446 (1999)
- Christie-Lambert Van & Storage Co. v. McLeod, 39 Wn. App. 298, 302, 693 P.2d 161 (1984)
- Perkins Coie v. Williams, 84 Wn. App. 733, 929 P.2d 1215 (1997)
- Pybas v. Paolino, 73 Wn. App. 393, 869 P.2d 427 (1994)
- State v. Hofer, 86 Wn. App. 497, 942 P.2d 979 (1997)
- ML Park Place Corp. v. Hedreen, 71 Wn. App. 727, 743, 862 P.2d 602 (1993)

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