

SUPREME COURT OF ALABAMA

Slamen v. Slamen

254 So. 3d 188 (Ala. 2017) · No. 1160763 · Decided December 22, 2017

SUMMARY

The Alabama Supreme Court treated the defendants' appeal from an order requiring merit-based discovery as a petition for a writ of mandamus. Applying *Ex parte Locklear Chrysler Jeep Dodge, LLC*, the court held that a trial court exceeds its discretion by ordering general discovery while a motion to compel arbitration remains pending. The court granted the petition and directed the trial court to vacate its discovery order.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Stuart, Chief Justice; Bolin, J.; Parker, J.; Shaw, J.; Main, J.; Wise, J.; Bryan, J.; Sellers, J.; Murdock, J.
JURISDICTION	Alabama
DECIDED	December 22, 2017
DOCKET	1160763
DISPOSITION	writ_granted
PROCEDURAL POSTURE	The defendants appealed from an order requiring them to respond to merit-based discovery while their motion to compel arbitration was pending. The Supreme Court of Alabama treated the appeal as a petition for a writ of mandamus because the challenged order concerned discovery management rather than a ruling on the motion to compel arbitration.
STANDARD OF REVIEW	Mandamus is an extraordinary remedy requiring a clear legal right to the requested order, an imperative duty accompanied by refusal, no other adequate remedy, and properly invoked jurisdiction. For discovery matters, mandamus issues only when the trial court clearly exceeded its discretion and the aggrieved party lacks an adequate remedy by ordinary appeal.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion; precedential
PARTIES	Darlene Slamen, Charles Martin, Wilhelmina Martin, Harris Partnership, LLP v. Herbert A. Slamen

TOPICS

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QUESTIONS PRESENTED

1. Whether the defendants' challenge to an order requiring merit-based discovery while a motion to compel arbitration was pending should be reviewed by appeal or by petition for a writ of mandamus.
2. Whether the trial court exceeded its discretion by ordering the defendants to participate in general, merit-based discovery before resolving the pending motion to compel arbitration.

HOLDINGS

1. A challenge to a trial court's handling of discovery while a motion to compel arbitration remains pending is properly reviewed by petition for a writ of mandamus, not by an ordinary appeal from an order denying arbitration.
2. A trial court exceeds its discretion by ordering a party to participate in merit-based discovery while that party's motion to compel arbitration is pending; discovery before the arbitration ruling must be limited to issues concerning whether the parties agreed to arbitrate or whether the claims are subject to arbitration.

KEY QUOTATIONS

"Mandamus is an extraordinary remedy and will be granted only where there is '(1) a clear legal right in the petitioner to the order sought; (2) an imperative duty upon the respondent to perform, accompanied by a refusal to do so; (3) the lack of another adequate remedy; and (4) properly invoked jurisdiction of the court.'" (192)

"Thus, Ex parte Locklear establishes that a trial court exceeds its discretion when it orders a party to participate in merit-based discovery when that party is awaiting a ruling on its motion to compel arbitration." (193-194)

FACTUAL BACKGROUND

Herbert and Darlene Slamen and Charles and Wilhelmina Martin each owned a 25 percent interest in Harris Partnership, LLP. Herbert alleged that, after he transferred his assets to a revocable trust and later revoked it, Darlene improperly transferred trust assets to herself and withheld proceeds from partnership and other business interests. The defendants moved to compel arbitration under the partnership agreement, but the circuit court ordered them to answer Herbert's general discovery requests before ruling on arbitration.

PROCEDURAL HISTORY

Herbert sued the defendants asserting fiduciary-duty, tort, and related claims concerning the disposition of trust and partnership assets. The defendants moved to dismiss and stay discovery, later moved to compel arbitration

under the Harris LLP partnership agreement, and sought a stay of discovery. The circuit court denied the stay and ordered responses to Herbert's discovery requests. The defendants filed both an appeal and a mandamus petition; the Supreme Court treated the appeal as a mandamus petition and granted relief.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The trial court was directed to vacate its order requiring the defendants to respond to Herbert's discovery requests.

CASES CITED

- Slamen v. Slamen, 254 So. 3d 172, 173-74 (Ala. 2017)
- Ex parte Locklear Chrysler Jeep Dodge, LLC, 251 So. 3d 40, 44-46 (Ala. 2017)
- Ex parte Dangerfield, 49 So. 3d 675, 684 (Ala. 2010)
- Ex parte Alfab, Inc., 586 So. 2d 889, 891 (Ala. 1991)
- State v. Cobb, 288 Ala. 675, 678, 264 So. 2d 523, 526 (1972)
- State v. Williams, 69 Ala. 311, 316 (1881)
- Home Insurance Co. v. Rice, 585 So. 2d 859, 862 (Ala. 1991)
- Ex parte Ocwen Federal Bank, FSB, 872 So. 2d 810, 813 (Ala. 2003)
- Ex parte Kenworth of Birmingham, Inc., 789 So. 2d 227 (Ala. 2000)
- Ex parte Jim Burke Automotive, Inc., 776 So. 2d 118 (Ala. 2000)
- FMR Corp. v. Howard, 227 So. 3d 444 (Ala. 2017)
- F.L. Crane & Sons, Inc. v. Malouf Construction Corp., 953 So. 2d 366, 372 (Ala. 2006)
- Managed Health Care Administration, Inc. v. Blue Cross & Blue Shield of Alabama, 249 So. 3d 486, 492-93 (Ala. 2017)
- Woodruff v. Gazebo East Apartments, 181 So. 3d 1076, 1080 (Ala. Civ. App. 2015)
- Cox v. Dodd, 242 Ala. 37, 39, 4 So. 2d 736, 737 (1941)