

SUPREME COURT OF WASHINGTON

Malted Mousse, Inc. v. Steinmetz

79 P.3d 1154, 150 Wash. 2d 518 (Wash. 2003) · No. No. 73120-9 · Decided November 13, 2003

SUMMARY

The Supreme Court of Washington held that trial de novo is the exclusive method for obtaining judicial review of an adverse decision in mandatory arbitration under chapter 7.06 RCW. Constitutional and statutory writs of certiorari are unavailable when trial de novo provides an adequate remedy, and the respondent's request for a partial trial de novo was ineffective because it did not comply with the mandatory arbitration rules. The court reversed the Court of Appeals and remanded for entry of judgment consistent with the original arbitration award.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Sanders, J.; Alexander, C.J.; Johnson, J.; Madsen, J.; Ireland, J.; Bridge, J.; Chambers, J.; Owens, J.; Fairhurst, J.
JURISDICTION	Washington
DECIDED	November 13, 2003
DOCKET	No. 73120-9
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Malted Mousse petitioned the Supreme Court of Washington for review after the Court of Appeals reversed the superior court and treated Steinmetz's request for a partial trial de novo as a constitutional writ of certiorari. The Supreme Court reversed the Court of Appeals and remanded for entry of judgment consistent with the original mandatory arbitration award.
STANDARD OF REVIEW	The court interpreted the mandatory arbitration rules as legislative enactments and construed them consistently with their purpose. Application of a court rule or law to the facts was reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Malted Mousse, Inc. v. Michael A. Steinmetz

TOPICS

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writ of certiorari

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether a party aggrieved by an erroneous ruling in a mandatory arbitration proceeding under chapter 7.06 RCW may obtain judicial review through a constitutional writ of certiorari rather than a trial de novo.
2. Whether a party may request a partial trial de novo limited to attorney fees in a mandatory arbitration proceeding.
3. Whether the Court should award Malted Mousse attorney fees under RAP 18.9(a) on the ground that Steinmetz's appeal was frivolous.

HOLDINGS

1. Trial de novo is the sole method for seeking judicial review of an erroneous ruling in a mandatory arbitration proceeding under chapter 7.06 RCW.
2. The procedures and standards governing review of private arbitration awards under chapter 7.04 RCW may not be applied to mandatory arbitration proceedings under chapter 7.06 RCW.
3. The manifest procedural error standard does not apply to mandatory arbitration proceedings under chapter 7.06 RCW.
4. A request for a partial trial de novo limited to attorney fees is ineffective because MAR 7.1 requires a trial de novo on all issues of law and fact.
5. Malted Mousse was not entitled to attorney fees on appeal because Steinmetz's appeal was not frivolous.

KEY QUOTATIONS

“We hold it does and that trial de novo is the sole method to seek judicial review from mandatory arbitration.” (at 1156)

“The entire case begins anew. The arbitral proceeding becomes a nullity, and it is relevant solely for purposes of determining whether a party has failed to improve his or her position, in which case attorney fees are mandated.” (at 1159)

“The manifest procedural error standard has no basis in review of mandatory arbitrations, especially because the statutory right to a trial de novo exists.” (at 1161)

“Thus, a constitutional writ is wholly inapplicable where an adequate remedy such as the trial de novo is available.” (at 1162)

FACTUAL BACKGROUND

In March 1999, Malted Mousse agreed to sell Steinmetz espresso equipment and provide training. Steinmetz paid a \$5,000 deposit by check and later stopped payment, alleging that Malted Mousse had misrepresented the equipment and failed to provide the promised training and assistance. Malted Mousse sued for less than \$10,000, and the case proceeded to mandatory arbitration. The arbitrator ruled for Steinmetz but denied his request for attorney fees after concluding that RCW 4.84.250 was unconstitutional.

PROCEDURAL HISTORY

Malted Mousse sued Steinmetz in Pierce County Superior Court for damages under \$10,000 arising from the sale of espresso equipment. The superior court transferred the case to mandatory arbitration, where Steinmetz prevailed but was denied attorney fees after the arbitrator opined that the small-claims fee statute was unconstitutional. Steinmetz requested a trial de novo concerning attorney fees only, but did not note the matter for trial; the superior court denied his later motion to confirm and vacate portions of the award. The Court of Appeals reversed, treating the request as a constitutional writ, and the Supreme Court granted review, reversed, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Court of Appeals and remand to the Pierce County Superior Court for entry of judgment in accordance with the original arbitration award. Malted Mousse's request for attorney fees is denied, but it is awarded its costs on appeal.

CASES CITED

- Barnett v. Hicks, 119 Wash. 2d 151, 829 P.2d 1087 (1992)
- Wiley v. Rehak, 143 Wash. 2d 339, 20 P.3d 404 (2001)
- Nevers v. Fireside, Inc., 133 Wash. 2d 804, 947 P.2d 721 (1997)
- Perkins Coie v. Williams, 84 Wash. App. 733, 929 P.2d 1215 (1997)
- Roberts v. Johnson, 137 Wash. 2d 84, 969 P.2d 446 (1999)
- Trusley v. Statler, 69 Wash. App. 462, 849 P.2d 1234 (1993)
- Smukalla v. Barth, 73 Wash. App. 240, 868 P.2d 888 (1994)
- Bongirno v. Moss, 93 Wash. App. 654, 969 P.2d 1118 (1999)
- Boyd v. Davis, 127 Wash. 2d 256, 897 P.2d 1239 (1995)
- Godfrey v. Hartford Cas. Ins. Co., 142 Wash. 2d 885, 898, 16 P.3d 617 (2001)
- Thorgaard Plumbing & Heating Co. v. King County, 71 Wash. 2d 126, 426 P.2d 828 (1967)
- Balfour, Guthrie & Co. v. Commercial Metals Co., 93 Wash. 2d 199, 607 P.2d 856 (1980)
- State v. Potter, 68 Wash. App. 134, 149 n. 7, 842 P.2d 481 (1992)
- Adams v. Dep't of Soc. & Health Servs., 38 Wash. App. 13, 683 P.2d 1133 (1984)

- Clark County Pub. Util. Dist. No. 1 v. Wilkinson, 139 Wash. 2d 840, 991 P.2d 1161 (2000)
- Saldin Sec., Inc. v. Snohomish County, 134 Wash. 2d 288, 949 P.2d 370 (1997)
- Pierce County Sheriff v. Civil Serv. Comm'n of Pierce County, 98 Wash. 2d 690, 658 P.2d 648 (1983)
- Bridle Trails Cmty. Club v. City of Bellevue, 45 Wash. App. 248, 724 P.2d 1110 (1986)
- Kreidler v. Eikenberry, 111 Wash. 2d 828, 766 P.2d 438 (1989)
- State ex rel. Cosmopolis Consol. Sch. Dist. No. 99 v. Bruno, 59 Wash. 2d 366, 367 P.2d 995 (1962)
- Clark County Pub. Util. Dist. No. 1 v. Int'l Bhd. of Elec. Workers, 150 Wash. 2d 237, 76 P.3d 248 (2003)
- Fay v. N.W. Airlines, Inc., 115 Wash. 2d 194, 796 P.2d 412 (1990)
- Malted Mousse, Inc. v. Steinmetz, 113 Wash. App. 157, 52 P.3d 555 (2002)

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