

SUPREME COURT OF THE STATE OF WASHINGTON

Nelson v. Erickson

Nelson · No. No. 92489-9 · Decided August 18, 2016

SUMMARY

The Washington Supreme Court considered whether a defendant improved his position at trial after requesting a trial de novo from mandatory arbitration. The court interpreted a settlement offer of "\$26,000 plus taxable costs incurred at arbitration" as \$26,000 plus the known arbitration costs of \$1,522, applying an ordinary-person standard. Because the trial award was less than that settlement amount, the defendant improved his position and was not liable for the plaintiff's attorney fees under MAR 7.3.

CASE DETAILS

COURT	Supreme Court of the State of Washington
WRITING FOR THE COURT	Owens, J.
JURISDICTION	Washington
DECIDED	August 18, 2016
DOCKET	No. 92489-9
DISPOSITION	affirmed
PROCEDURAL POSTURE	After mandatory arbitration, the defendant requested a trial de novo. The trial court entered a jury award lower than the settlement offer and awarded the plaintiff attorney fees and costs under MAR 7.3. The Court of Appeals vacated the fee and cost award, and the Washington Supreme Court granted review.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Jess Nelson v. Michael Erickson and Jane Doe Erickson, and the marital community composed thereof

TOPICS

- arbitration
- attorney fees
- appellate procedure
- statutory interpretation
- plain meaning rule

PRACTICE AREAS

- civil procedure
- appellate procedure
- arbitration
- attorney fees
- statutory interpretation

QUESTIONS PRESENTED

1. Whether Erickson improved his position at trial for purposes of MAR 7.3 when the pretrial settlement offer was "\$26,000 plus taxable costs incurred at arbitration."
2. How a settlement offer containing a specific amount plus known arbitration costs should be interpreted when determining entitlement to attorney fees after a trial de novo.

HOLDINGS

1. A settlement offer stating "\$26,000 plus taxable costs incurred at arbitration" must be interpreted as \$26,000 plus the known arbitration costs of \$1,522.
2. Erickson improved his position at trial because the \$27,167 trial award was less than the \$27,522 settlement offer.

KEY QUOTATIONS

"We read this offer as an ordinary person would: \$26,000 plus the known arbitration costs of \$1,522." (at 3)

"We treat this offer as an ordinary person would interpret it." (at 7)

"We hold parties to the total settlement amount in their offer, and we do not dissect the offer after the fact."
(at 7)

FACTUAL BACKGROUND

Jess Nelson sued Michael Erickson for personal injuries arising from a car accident. After mandatory arbitration resulted in a \$44,923 award, Erickson requested a trial de novo. Nelson offered to settle for \$26,000 plus taxable costs incurred at arbitration, which totaled \$1,522. The jury awarded \$24,167, and the trial court increased the award to \$27,167 through additur.

PROCEDURAL HISTORY

The arbitrator awarded the plaintiff \$44,923, including \$1,522 in attorney fees and costs. The defendant requested a trial de novo, and the plaintiff offered to settle for "\$26,000 plus taxable costs incurred at arbitration." The jury awarded \$24,167, later increased by additur to \$27,167. The trial court awarded the plaintiff attorney fees and costs, but the Court of Appeals vacated that award. The Supreme Court affirmed the Court of Appeals.

DISPOSITION

affirmed

CASES CITED

- Niccum v. Enquist, 175 Wn.2d 441, 286 P.3d 966 (2012)
- Cormar, Ltd. v. Sauro, 60 Wn. App. 622, 623, 806 P.2d 253 (1991)

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