

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Matter of Metropolitan Transp. Auth. v. Westfield Fulton Ctr., LLC

2022 NY Slip Op 02875 (1st Dep't 2022) · No. Appeal No. 15831-15831A; Index No. 450428/21; Case No. 2021-01540 · Decided April 28, 2022

SUMMARY

The Appellate Division, First Department, unanimously affirmed dismissal of the Metropolitan Transportation Authority's petition to stay arbitration involving Westfield Fulton Center, LLC. The court held that the lease did not clearly and unmistakably assign arbitrability questions to the arbitrator, but that the claims and requested relief fell within the lease's broad arbitration provision.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Acosta, P.J.; Manzanet-Daniels, J.; Mazzarelli, J.; Singh, J.; González, J.
JURISDICTION	New York
DECIDED	April 28, 2022
DOCKET	Appeal No. 15831-15831A; Index No. 450428/21; Case No. 2021-01540
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioners appealed from a judgment dismissing their petition to stay arbitration and from a related order. The Appellate Division affirmed the judgment and dismissed the appeal from the order as subsumed in the appeal from the judgment.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Metropolitan Transportation Authority, New York City Transit Authority v. Westfield Fulton Center, LLC

TOPICS

- arbitration
- contract interpretation
- commercial litigation
- appellate procedure
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court or the arbitrator should decide whether Westfield's claims fell within the scope of the lease's arbitration provisions.
2. Whether the scope of the lease's arbitration provisions required a stay of arbitration because some requested relief appeared to fall outside a narrow arbitration clause.
3. Whether Westfield's request for attorneys' fees could be addressed in the arbitration.

HOLDINGS

1. The court, rather than the arbitrator, correctly decided whether Westfield's claims came within the scope of the lease's arbitration provisions because the lease did not clearly and unmistakably delegate the question of arbitrability to the arbitrator.
2. The arbitration should not be stayed merely because some requested relief may fall outside the narrow arbitration clause, so long as the arbitrator retains power to fashion some relief on the issue submitted for arbitration.
3. Westfield's request for attorneys' fees under section 23.1 of the lease could be addressed in the arbitration and did not provide a basis for staying it.

KEY QUOTATIONS

“Although there are several provisions in the lease directing that the parties arbitrate specific substantive disputes, including section 3.1 upon which Westfield relies, there are no provisions stating “clearly and unmistakably” that the question of arbitrability is to be decided by the arbitrator”

“Thus, even if some of the relief requested in the arbitration appears to fall outside the narrow arbitration clause, that alone is not a basis to stay the arbitration as long as “the fashioning of some relief on the issue sought to be arbitrated remains within the arbitrator's power””

FACTUAL BACKGROUND

The parties' lease contained several provisions requiring arbitration of specified substantive disputes, including section 3.1. Westfield commenced arbitration asserting claims under the lease and sought, among other relief, attorneys' fees under section 23.1. The MTA sought to stay the arbitration, contending that some of Westfield's claims or requested relief fell outside the arbitration provisions.

PROCEDURAL HISTORY

The MTA petitioned Supreme Court, New York County, for a stay of arbitration involving claims asserted by Westfield under the parties' lease. Supreme Court dismissed the petition and entered judgment on May 7, 2021. The Appellate Division affirmed the judgment and dismissed the separate appeal from the April 23, 2021 order as subsumed in the judgment appeal.

DISPOSITION

affirmed

CASES CITED

- Zachariou v Manios, 68 AD3d 539 [1st Dept 2009]

OPINION

PER CURIAM.

Matter of Metropolitan Transp. Auth. v Westfield Fulton Ctr., LLC (2022 NY Slip Op 02875)
Matter of Metropolitan Transp. Auth. v Westfield Fulton Ctr., LLC 2022 NY Slip Op 02875
Decided on April 28, 2022 Appellate Division, First Department Published by New York State
Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to
revision before publication in the Official Reports.

Decided and Entered: April 28, 2022 Before: Acosta, P.J., Manzanet-Daniels, Mazzairelli, Singh,
González, JJ. Index No. 450428/21 Appeal No. 15831-15831A Case No. 2021-01540 [*1]In the
Matter of Metropolitan Transportation Authority et al., Petitioners-Appellants, vWestfield Fulton
Center, LLC, Respondent-Respondent. Ingram Yuzek Gainen Carroll & Bertolotti, LLP, New York
(John G. Nicolich of counsel), for appellants.

Blank Rome LLP, New York (Harris N. Cogan of counsel), for respondent. Judgment, Supreme
Court, New York County (Joel M. Cohen, J.), entered May 7, 2021, dismissing petitioners
Metropolitan Transportation Authority and New York City Transit Authority's (together, MTA)
petition for a stay of arbitration, unanimously affirmed, without costs. Appeal from order, same
court and Justice, entered on or about April 23, 2021, unanimously dismissed, without costs, as
subsumed in the appeal from the judgment.

Supreme Court correctly reached the issue of whether the claims asserted by respondent Westfield
Fulton Center, LLC came within the scope of the arbitration provisions in the parties' lease.
Although there are several provisions in the lease directing that the parties arbitrate specific
substantive disputes, including section 3.1 upon which Westfield relies, there are no provisions
stating "clearly and unmistakably" that the question of arbitrability is to be decided by the
arbitrator (Zachariou v Manios, 68 AD3d 539, 539 [1st Dept 2009]).

The court correctly dismissed MTA's petition to stay the arbitration. Section 3.1 of the lease
provides that related claims that may not squarely fit into the definition of substantial or final
completion are nonetheless covered by the lease's broad arbitration provision.

Thus, even if some of the relief requested in the arbitration appears to fall outside the narrow
arbitration clause, that alone is not a basis to stay the arbitration as long as "the fashioning of some
relief on the issue sought to be arbitrated remains within the arbitrator's power" (Zachariou, 68

AD3d at 540 [internal quotation marks omitted]). This includes Westfield's request for attorneys' fees under section 23.1 of the lease, should it ultimately prevail at arbitration.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT,
APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: April 28, 2022

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