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MMAWC, LLC v. Zion Wood Obi Wan Trust, 135 Nev. Adv. Op. 38 (Sep. 5, 2019)

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Summary

The Court determined that the Federal Arbitration Act (“FAA”) preempted NRS § 597.995, which required any agreement containing an arbitration provision to also provide affirmative authorization to the arbitration by the agreement’s parties.²

Background

I.

In 2012, a licensing agreement was entered between MMAWC, LLC, d/b/a “World Series of Fighting,” and Hesser, who later assigned his license rights to World Series of Fighting Global, Ltd. (“WSOF Global”). Shawn Wright, the trustee of Zion Wood Obi Wan Trust, was the president of WSOF Global, as well as a member of MMAWC. Various parties were drawn into litigation, eventually entering into a settlement agreement. The settlement agreement “provided that the settlement agreement was the entire agreement between the parties.” It also provided that the license agreement would be “reaffirmed and remain in full force,” as well as be amended to include an arbitration clause.

The plaintiffs, collectively called Zion, filed a complaint against MMAWC and others (collectively, MMAWC), claiming that MMAWC had breached the licensing agreement, which amounted to breaching the settlement agreement. MMAWC moved to have the complaint dismissed and compelled to arbitration. MMAWC argued that “the settlement agreement incorporated the licensing agreement and, by extension, the arbitration provision.” However, the parties disagreed on whether the arbitration agreement complied with NRS § 597.995. They further disagreed over whether the FAA preempted NRS § 597.995.

The district court denied MMAWC’s motion to dismiss and compel arbitration because it found that the licensing agreement’s arbitration clause did not comply with NRS § 597.995. MMAWC appealed.

Discussion

II.

NRS § 597.995 provides that an arbitration provision “must include specific authorization for the provision which indicates that the person has affirmatively agreed to the provision.”³ The absence of the affirmative agreement renders the arbitration provision void and unenforceable.⁴

The issue in this case was whether the FAA preempted NRS § 597.995. The Court reviewed this issue, as well as other questions related to statutory construction, *de novo*.

Under the FAA, arbitration provisions are “valid, irrevocable, and enforceable.”⁵ This Court has recently reiterated the sentiment held by the United States Supreme Court that “when

¹ By John McCormick-Huhn.

² 9 U.S.C. § 2 (2012); NEV. REV. STAT. § 597.995 (2019).

³ *Id.*

⁴ *Id.*

the FAA applies, it preempts state laws that single out and disfavor arbitration.”⁶ Arbitration agreements cannot be subjected to stricter requirements than would typically be subjected to other general contract provisions. For instance, a Montana law was preempted by the FAA when it required a notice of an arbitration provision to be typed in capital letters on the first page of the contract.⁷ This type of notice requirement had not been required of other contract provisions, thus resulting in the arbitration provision being held to a stricter requirement.

Here, NRS § 597.995 provided another such instance where a state law required a stricter and special requirement that had not been extended and required of other contract provisions. The Court held that NRS § 597.995 was preempted by the FAA. Thus, the district court erred in voiding the arbitration provision based on NRS § 597.995.

However, another issue presented in this case was whether the specific claims asserted in the complaint fell within the arbitration provision. Specifically, did “the settlement agreement incorporate[] the licensing agreement and its arbitration provision?”

III.

According to *May v. Anderson*, contract law’s general principles apply to settlement agreements.⁸ When facts are not in dispute, contract interpretation require de novo review.⁹ A contract is enforceable as written when it uses clear and unambiguous language.¹⁰ Critical to the interpretation of the contract is the intent of the parties.¹¹ Any ambiguity will be interpreted against the drafter.¹² Intent will be interpreted by looking at the four corners of the contract.¹³ “[W]ritings which are made part of the contract by annexation or reference will be so construed”¹⁴

After reviewing the agreements and arguments made by the parties, the Court held that the arbitration clause applied to the complaint’s asserted claims. The district court erred by not enforcing the arbitration clause. The language of the settlement agreement was plain, such that it expressly provided that it would incorporate the licensing agreement and the licensing agreement’s arbitration provision. The very language of the settlement agreement exempted the licensing agreement from the settlement agreement’s dispute provisions, thus keeping the arbitration provision intact. Notwithstanding this conclusion, the very fact that Zion brought a cause of action for breach of the licensing agreement *itself*, meant that Zion was bound to *that* agreement’s arbitration provision. “Zion’s claims relate directly or indirectly to the license, and the arbitration provision requires arbitration of any disputes related either directly or indirectly to the license.”

⁵ 9 U.S.C. § 2 (2012).

⁶ *United States Home Corp. v. Michael Ballesteros Trust*, 134 Nev. 180, 188, 415 P.3d 32, 40 (2018).

⁷ *Doctor’s Associates, Inc. v. Casarotto*, 517 US. 681, 683, 687 (1996).

⁸ 121 Nev. 688, 672, 119 P.3d 1254, 1257 (2005).

⁹ *Am. First Fed. Credit Union v. Soro*, 131 Nev. 737, 739, 359 P.3d 105, 106 (2015).

¹⁰ *State, Dept’t of Transp. v. Eighth Judicial Dist. Court*, 133 Nev. 549, 554, 402 P.3d 677, 682 (2017).

¹¹ *Am. First Fed. Credit Union*, 131 Nev. at 739, 359 P.3d at 106.

¹² *Id.*

¹³ *MHR Capital Partners LP v. Presstek, Inc.*, 912 N.E.2d 43, 47 (N.Y. 2009).

¹⁴ *Lincoln Welding Works, Inc. v. Ramirez*, 98 Nev. 342, 345, 647 P.2d 381, 383 (1982).

Conclusion

IV.

The Court held that NRS § 597.995 was preempted by the FAA for singling out an arbitration provision and requiring of it a stricter standard than what was typically applied to other general contract provisions, specifically that it requires specific authorization by the parties. The district court was incorrect in using NRS § 597.995 to label the arbitration provision as unenforceable. Further, the arbitration clause applied to the plaintiff's claims laid out in the complaint. The Court accordingly reversed and remanded the case to the district court. It specifically ordered the district court "to grant MMAWC's motion to dismiss and enforce the arbitration clause."