



Case Summaries May 26, 2023

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OPINIONS

ARBITRATION

Enforceability of Arbitration Agreement

Hous. AN USA, LLC v. Shattenkirk, ___ S.W.3d ___, 2023 WL ___ (Tex. May 26, 2023) [22-0214]

The issue in this employment-discrimination case is whether an arbitration agreement is unconscionable, and thus unenforceable, on the ground that the allegedly excessive costs associated with arbitration would foreclose the employee from pursuing his statutory claims.

AutoNation USA Houston owns and operates a car dealership in Houston. AutoNation hired Walter Shattenkirk as its general manager but fired him approximately six months later. Shattenkirk sued AutoNation for discrimination and retaliation, alleging that he was terminated for reporting racist comments made by his supervisor. AutoNation moved to compel arbitration based on an agreement, which Shattenkirk allegedly signed during the hiring process, that requires the parties to arbitrate any claims arising from the employment relationship, including discrimination claims. The agreement does not discuss who would pay administrative fees, the arbitrator's compensation, or other expenses. The trial court denied the motion to compel, concluding that the agreement is unconscionable and unenforceable because the cost of arbitration would be so high that it would effectively preclude Shattenkirk from pursuing his claims. The court of appeals affirmed.

The Supreme Court reversed, holding that Shattenkirk failed to demonstrate the arbitration agreement's unconscionability. To show that the prohibitive cost of arbitrating renders an agreement to do so unconscionable, the party opposing arbitration must present more than evidence of the risk of incurring prohibitive costs; he must present specific evidence that he will actually be charged such costs. Here, Shattenkirk presented only conclusory evidence that the increased cost of arbitration compared to litigation would foreclose him from proceeding with the case. Further, given the agreement's silence on costs and the lack of other record evidence indicating how those costs would be allocated, any holding that they render the agreement unconscionable would be premature. Accordingly, the Court held that Shattenkirk failed to meet his burden of proving the likelihood that he would incur prohibitive arbitration costs and thus failed to show that the agreement was unenforceable on that ground. The Court remanded the case to the court of appeals to address the parties' issues regarding whether Shattenkirk signed the agreement.