

THIRD CIRCUIT EXPLAINS WHAT CONSTITUTES A “FINAL DECISION” AND REVERSES AN ORDER TO COMPEL ARBITRATION

Cup v. Ampco Pittsburgh Corporation, 903 F.3d 58 (3d Cir. 2018)

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In *Cup v. Ampco Pittsburgh Corp.*, 903 F.3d 58 (3d Cir. 2018), the Third Circuit was presented with the question of whether an arbitration clause in a collective bargaining agreement (CBA) covered retirees who had retired before the CBA went into effect. Before answering the question, however, the Court addressed a threshold procedural issue of whether the district court’s order compelling arbitration amounted to a “final decision” over which the Court could exercise appellate jurisdiction. In a unanimous precedential opinion authored by Judge Hardiman and joined by Chief Judge Smith and Judge Restrepo, the Court ruled that the district court’s order was a final decision and that the retirees were not covered by the CBA.

Background

Cup involved a dispute over healthcare benefits for retirees at a manufacturing facility in Avonmore, Pennsylvania. In 2016, Ampco acquired the facility. Later that year, Ampco announced a change to its healthcare plan for retirees who had retired before March 1, 2015. Instead of charging the retirees \$195 per month, as had been the case, retirees would have to purchase health insurance on the private marketplace and receive a stipend as reimbursement from the company. The retirees opposed the new plan and the union filed a grievance on their behalf under the CBA. Ampco rejected the grievance, taking the position that the union did not represent the retirees.

The union and a retiree who had retired in 2014 sued Ampco on behalf of retirees who would be affected by the change. The complaint sought an order to compel arbitration and enforce the CBA or, in the alternative, relief under ERISA. Ampco moved to dismiss, and the plaintiffs moved to compel arbitration.

Relying on the strong federal policy in favor of arbitration, as well as the CBA’s broadly worded arbitration provision, the district court granted the plaintiffs’ motion to compel arbitration. The district court went on to dismiss the plaintiffs’ remaining two counts without reaching the merits, denied Ampco’s motion to dismiss as moot, ordered the parties to attend mediation before arbitration, and administratively closed the case.

The District Court’s Order Constituted a “Final Decision”

Under 28 U.S.C. § 1291 (and the Federal Arbitration Act with regard to decisions involving arbitration), the courts of appeals have jurisdiction over “final decisions.” The question that the Court faced in *Cup* was whether the district court’s order compelling arbitration constituted a “final decision.”

As an initial matter, the Court determined that the district court’s administratively closing of the case was not, in itself, sufficient to make the decision “final.” However, the Court recognized that the district court did not merely administratively close the case; it went on to order arbitration and dismiss all of the other claims in the case. The Court found that the dismissal of all the other counts was “about as strong a ‘signal’ as [the Court could] envision” that the district court’s decision was “final.” Having taken that action, the district court had “nothing more to do but to execute the judgment.” *Green Tree Fin. Corp.-Ala. v. Randolph*, 531 U.S. 79, 86 (2000) (quotation and citation omitted). Such a decision is “final” for the purposes of appellate jurisdiction.

The Plaintiff Retirees Were Not Covered by the CBA

The CBA governed disputes “between the Company and the Union or its members.” The question that the Court addressed was whether retirees fell within those categories. To answer this question, the Court simply looked to the CBA and found that it covered “employees,” which were defined as those working at the facility “as of the date of [the] Agreement or thereafter.” Thus, by its terms, the CBA did not apply to the plaintiff retirees, who had retired before the CBA went into effect.

The plaintiffs raised two additional arguments, both of which the Court rejected. First, the plaintiffs argued that the CBA implicitly incorporated a memorandum of agreement (MOA) that applied to retiree benefits because the CBA made reference to medical insurance. The Court found that this reference was insufficient to demonstrate the parties’ intent to incorporate the MOA. Without that intent, the Court declined to hold that the MOA was incorporated into the CBA.

Second, the plaintiffs argued that the parties had arbitrated disputes in the past, including disputes about retiree benefits. The Court rejected this argument because the CBA was unambiguous, and thus extrinsic evidence of the parties’ past conduct was not needed.

Having reached this conclusion, the Court reversed the district court’s order compelling arbitration and remanded for further proceedings.

Conclusion

In the wake of *Cup*, Third Circuit practitioners would do well to keep a couple of things in mind. First, whether a district court’s decision is “final” for purposes of a circuit court’s appellate jurisdiction is not always clear. In attempting to answer the question, attorneys should ask what more, absent any actions by the parties, the district court has to do with the case. If the answer is nothing, the decision may be “final” and the clock for filing an appeal may be ticking. In that case, it is essential to file a notice of appeal and preserve appellate rights. Second, the federal policy in favor of enforcing arbitration agreements can only go so far. Without a showing that the parties intended to include a class of disputes within the ambit of an arbitration clause, attorneys may have difficulty prevailing on motions to compel arbitration.