

**BLOGS**

Arbitration

## Court Denies Petition to Vacate Arbitration Award Under Evident Partiality and Exceeding Power Standards of Review

The federal court in Massachusetts has denied a franchisor's motion to vacate an arbitration award and granted a franchisee's motion to confirm the award on the grounds that the franchisor failed to show that the arbitrator was partial to the franchisee or that the arbitrator had exceeded her powers. *System4, LLC v. Ribeiro*, 2017 WL 3461292 (D. Mass. Aug. 11, 2017). In 2010, a state court putative class action was filed against franchisor System4 and master franchisee NECCS, Inc. on behalf of unit franchisee cleaning workers who claimed that System4 and NECCS had misclassified them as independent contractors in violation of the Massachusetts Wage Act. After System4 successfully moved to compel the unit franchisees to individually arbitrate under the terms of their franchise agreements with NECCS, Luis Ribeiro, one of the putative class members, filed an arbitration demand with the American Arbitration Association alleging Wage Act claims.

At the outset of the case, the arbitrator determined that Ribeiro was likely to succeed on his Wage Act claim. Therefore, instead of applying the AAA's Commercial Arbitration Rules pursuant to the franchise agreement terms, the arbitrator ruled that the proceedings would be governed by the AAA's Employment Rules, and ordered System4 to advance the cost of the arbitration. On cross-motions for summary judgment, the arbitrator ultimately determined that Ribeiro should have been classified as an employee under the Wage Act, and awarded Ribeiro damages, attorneys' fees, and costs. System4 then moved the federal court to vacate the award, arguing that there was evident partiality on behalf of the arbitrator towards Ribeiro and that she exceeded her powers in making several unfavorable rulings against System4 since she refused to adhere to the franchise agreement terms, and disregarded the applicable statutory and common law. Citing existing precedent that a party must meet a high burden to demonstrate objective facts inconsistent with impartiality, the court rejected System4's argument that the arbitrator was partial to Ribeiro.

Moreover, the court declined to find that the arbitrator had failed to adhere to the terms of the franchise agreement by applying the AAA Employment Rules in lieu of the Commercial Arbitration Rules, noting that her substantive determination that Ribeiro should have been classified as an employee, and that System4 had violated the Wage Act, would require overriding the AAA Commercial Rules in any case. Finally, the court found that the arbitrator did not act in manifest disregard of the law. It noted that, even if the arbitrator misapplied the law, that would not be enough to overturn the decision. Rather, the party challenging the decision

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would have to show that the reasoning in the award was so “palpably faulty” that no judge “could ever conceivably have made such a ruling.”