



BLOGS
Arbitration

Enforcing Arbitration Provision, District Court Dismisses Putative Class Action by Franchisee

A federal court in Illinois recently held that it lacked subject-matter jurisdiction over a putative franchisee class action in light of the binding arbitration provision in the governing franchise agreement. *Sanchez v. CleanNet USA, Inc.*, 2015 U.S. Dist. LEXIS 5383 (N.D. Ill. Jan. 15, 2015). The named plaintiff, Sanchez, filed suit against franchisor CleanNet USA and area operator CleanNet IL claiming violation of the Fair Labor Standards Act. Both defendants moved for dismissal based on a mandatory arbitration provision in the franchise agreement. In response, Sanchez argued that the arbitration provision was procedurally and substantively unconscionable and therefore unenforceable. Sanchez claimed that the agreement was presented in a “take-it-or-leave-it” manner, the arbitration provision was “buried” in the lengthy agreement and CleanNet failed to explain every term of the agreement in Spanish, his native language. Sanchez also argued that the cost sharing scheme and damages limitation clause in the arbitration provision rendered it unconscionable.

The court generally found Sanchez’s arguments unpersuasive. Applying Illinois law, the court held that absent evidence of an abuse of power, disparate bargaining power between parties does not render an agreement unenforceable. The court also found that the arbitration provision was not “buried” in the agreement because it was presented in the same font and format as the other terms in the agreement. As to the translation claim, the court held that CleanNet had no obligation to translate the entire franchise agreement into Spanish, or to explain every provision in Spanish. A CleanNet representative discussed the agreement with Sanchez in Spanish before he signed and initialed every page. Although the court found that the cost sharing scheme in the arbitration provision was not unfair, it agreed that the damages limitation clause in the arbitration provision was unconscionable because it precluded Sanchez from seeking unwaivable statutorily remedies. However, the court found that the unconscionable damages limitation clause did not make the entire arbitration provision unenforceable; rather, it could be severed from the agreement.

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