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BLOGS

Arbitration

Michigan Court Holds That Federal Motor Vehicle Franchise Contract Arbitration Fairness Act Does Not Apply to Foreign Dealers

A Michigan federal court recently found that it lacked the authority to determine the arbitrability of a dispute between an American manufacturer and a foreign dealer in *Arabian Motors Group, W.L.L. v. Ford Motor Co.*, 2017 WL 218081 (E.D. Mich. Jan 19, 2017). A Kuwaiti dealer alleged that it could not be compelled to arbitrate its dispute with an American manufacturer as required by the parties' resale agreement. The dealer claimed that the agreement's delegation clause was unenforceable under the federal Motor Vehicle Franchise Contract Arbitration Fairness Act. The court found that the Fairness Act does not apply to contracts between domestic manufacturers and foreign dealers; therefore, the clause delegating the authority to determine arbitrability remained enforceable.

Generally, questions of arbitrability are to be decided by courts, rather than arbitrators. The parties in this case, however, had agreed to arbitrate under the then-current UNCITRAL Rules, which provide that "the arbitral tribunal shall have the power to rule on objections that it has no jurisdiction, including any objections with respect to the existence or validity of the arbitration clause." Courts have consistently held that the use of the UNCITRAL Rules is clear evidence that the parties intended to have an arbitrator decide the threshold issues of the enforceability of an arbitration clause. The dealer contended that the delegation provision was unenforceable under the Fairness Act because it requires the post-dispute consent of the parties to submit any matter (including arbitrability) to arbitration. The Fairness Act applies, however, only to motor vehicle franchise contracts. The court found that a contract between a manufacturer and a foreign dealer is not a motor vehicle franchise contract as contemplated by the statute. The court based its finding on the presumption that Congress generally intends for its statutes to have strictly domestic application and there was no convincing indication that Congress had intended differently with regards to the Fairness Act.

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