MAINE SUPREME JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 18-58
Docket No. Cum-17-511

JAMES D. KLEIN et al.

v.

MARK C. KLEIN

Argued June 13, 2018
Decided July 3, 2018

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Mark C. Klein appeals from a judgment of the Superior Court (Cumberland County, *L. Walker, J.*) (1) granting the motion of James D. Klein and Margaret L. K. Selian to confirm the second and third awards issued by an arbitrator; (2) granting James and Margaret's motion to impose sanctions against Mark; and (3) denying Mark's combined "motion to dismiss and for stay, motion to disqualify the arbitrator, opposition and motions to stay and vacate plaintiffs' motion to confirm arbitration awards 2 and 3 and opposition to motion for sanctions."

The court did not err when it declined to vacate the second and third awards pursuant to one of the exclusive, statutory grounds for vacatur. *See* 14 M.R.S. § 5938(1) (2017); *Stanley v. Liberty*, 2015 ME 21, ¶ 23, 111 A.3d 663 ("Our review of a court's confirmation of an arbitration award is confined to errors of law only, and the award will be upheld unless the court was compelled to vacate it."); *HL 1, LLC v. Riverwalk, LLC*, 2011 ME 29, ¶¶ 19, 29, 15 A.3d 725 ("[A]n arbitrator's decision is final and binding and non-reviewable save as specifically provided by [section] 5938[, and a] reviewing court is not

empowered to overturn an arbitration award merely because it believes that sound legal principles were not applied." (quotation marks omitted)).

In particular, the record does not support Mark's contentions for the following reasons. First, the court was not compelled to conclude that the parties did not agree to submit their dispute to arbitration. *See* 14 M.R.S. § 5938(1)(E); *Roosa v. Tillotson*, 1997 ME 121, ¶ 3, 695 A.2d 1196 ("Maine has a broad presumption favoring substantive arbitrability . . . ."). Second, the court was not compelled to conclude that the arbitrator exceeded his powers. *See* 14 M.R.S. § 5938(1)(C); *Xpress Nat. Gas, LLC v. Cate St. Capital, Inc.,* 2016 ME 111, ¶ 9, 144 A.3d 583 ("The standard for determining whether an award exceeds an arbitrator's power is an extremely narrow one. It is, after all, the arbitrator's construction of the contract that was bargained for and only when there is manifest disregard of the contract will we disturb the award. We afford arbitrators a high degree of deference, with all doubts generally resolved in favor of the arbitrator's authority." (citations omitted) (quotation marks omitted)); *see also Dep't of Prof'l & Fin. Regulation v. Me. State Emps. Ass'n, SEIU Local 1989*, 2013 ME 23, ¶¶ 8-10, 12, 64 A.3d 449 (explaining that a court may vacate an award if it contravenes public policy, but only if the public policy is "affirmatively expressed or defined in the laws of Maine") (quotation marks omitted)). And, third, the court was not compelled to conclude that Mark made a sufficient showing of "evident partiality" by the arbitrator. *See* 14 M.R.S. § 5938(1)(B); *Concord Gen. Mut. Ins. Co. v. N. Assurance Co.*, 603 A.2d 470, 472 (Me. 1992).

Finally, the court did not err or abuse its discretion when it sanctioned Mark for "the reasons stated in Plaintiffs' affirmative motion opposition to Defendant's motion." *See Linscott v. Foy*, 1998 ME 206, ¶¶ 16-19, 716 A.2d 1017.

The entry is:

Judgment affirmed.

Thomas F. Hallett, Esq., and Daniel D. Feldman, Esq. (orally), Hallett Whipple Weyrens, Portland, for appellants Mark C. Klein et al.

David S. Sherman, Jr., Esq., and Amy K. Olfene, Esq. (orally), Drummond Woodsum, Portland, for appellees James D. Klein et al.

Cumberland County Superior Court docket number CV-2015-151
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