

ARBITRATION NOT APPLICABLE TO CONTRACT OF LABOR

The issue of the enforceability of an arbitration clause in a service contract was recently addressed in *Wright v. 3P Delivery, L.L.C.*, 2007 WL 3171260 (La. App. 3d Cir. 2007). In this action, Plaintiff Chester Wright and Defendant 3P Delivery, L.L.C. entered into the contract entitled "Driver Service Agreement." The contract called for the Plaintiff to "provide pick up and delivery service," to "provide loading and unloading of ... shipments," and to "handle, load, unload, and transport shipments... and equipment." The contract also contained an arbitration clause. Plaintiff filed suit claiming breach of contract. In response thereto, the Defendant filed a Motion to Compel Arbitration and Stay Litigation.

There was no dispute that the contract contained an arbitration clause. The primary issue was whether La. R.S. 9:4216 was applicable or not. This statute states that the Louisiana Arbitration law does not apply to contracts of employment of labor. Presumably the purpose of this provision excluding arbitration in labor contracts versus managerial/professional contracts is the unequal bargaining positions and intellectual advantage of the employer. The question presented in addressing the Motion to Compel was whether this contract was one for the employment of labor or simply for services. The Louisiana Arbitration Law does not specifically define what constitutes a contract of employment of labor.

The Third Circuit stated that although this was a contract entitled "Driver Service Agreement," the terms of the contract set forth its true nature, which can be discerned from the wording thereof. The Court looked beyond the mere title of the contract and said that "loading, unloading, and handling of shipments and equipment" clearly require the application of "physical force, or brawn and muscle" as opposed to the performance of mental tasks or services of those recognized as professional men or women. From the four corners of the contract, the parties intended that Mr. Wright engage primarily in labor services. The Court stated, "Although these activities may provide a 'service' to their recipient, all of these activities are accomplished through physical labor." Thus, the Court concluded that pursuant to La. R.S. 9:4216, the contract was exempt from mandatory arbitration. The Court affirmed the trial court ruling denying the Motion to Compel Arbitration and Stay Litigation.

James R. "Sonny" Chastain
sonny.chastain@keanmiller.com
225.389.3706



This newsletter is designed as a general report on legal developments. The published material does not constitute legal advice or rendering of professional services.

2008 Kean Miller Labor & Employment Law Update

Kean Miller will hold its annual Labor & Employment Law Update on
Wednesday, April 16th from 7:45 am – 1:00 pm at
White Oak Conference Center.

If you would like more information, please email
client_services@keanmiller.com

