

Domestic relations – Arbitration

Where (1) a divorced father filed a complaint for modification seeking to reduce his child support obligation, (2) his former wife responded with a counterclaim for modification seeking an order requiring him to pay one half of the cost of the children's extracurricular activities, equipment and school fees and (3) the parties, both represented by counsel, later filed a joint motion to submit all pending complaints to binding arbitration, a Probate & Family Court judgment confirming the arbitration award must be upheld despite the husband's claim of an improper delegation of judicial authority.

“The husband appeals from four Probate and Family Court judgments dated April 16, 2014, that issued following the confirmation of an original and an amended arbitration award in favor of the wife. He argues that the judge improperly delegated her authority by allowing the parties' joint motion to submit their pending complaints to binding arbitration, and abused her discretion in entering judgments based on the arbitrator's award. ...

“... Here, it is undisputed that with the advice of counsel, and with no challenge to the validity of the agreement to arbitrate, the parties agreed to remove their case from consideration by a judge of the Probate and Family Court and have it decided through binding arbitration. When such an agreement exists, no improper delegation of a judge's authority follows. ...

“If parties do agree to resolve their disputes through binding arbitration, following the arbitrator's decision and award, the judge retains the ‘nondelegable duty to make the final and binding resolution of the case.’ ... David claims that the judge abused her discretion in this regard in dismissing his complaint for modification of his child support obligation. Specifically, he complains that the arbitrator disregarded the plain language of G.L.c. 208, §28, failed to make findings justifying his refusal to modify the initial child support order, and used faulty reasoning rather than applying the applicable statutes and child support guidelines.

“Because David did not include, as part of the record on appeal, a transcript of the proceedings wherein the judge confirmed the arbitrator's original and amended awards, he has waived this claim. ... Without such a record, we are unable to examine the process by which the judge reviewed the original and the amended arbitration decision and award.

“Notwithstanding the waiver, however, we take this opportunity to comment upon the review of arbitration cases arising in the Probate and Family Court. Arbitration claims arise in multiple and varied legal contexts, whether by private agreement or based in statute. ... While no statute explicitly governs arbitration within the Probate and Family Court, the overarching principles governing the review of arbitration awards equally apply. Those principles generally dictate that judicial review of matters submitted to arbitration is narrow in scope. ... In the context of the Massachusetts Uniform Arbitration Act for Commercial Disputes, G.L.c. 251, review is confined to determining whether the arbitrator: (1) ‘exceed[ed] his authority by granting relief beyond the scope of the arbitration agreement, ... by awarding relief beyond that to which the parties bound themselves, ... or by awarding relief prohibited by law,’ or (2) ‘decided the matter based on ‘fraud, arbitrary conduct, or procedural irregularity in the hearings.’ ... Typically, no

inquiry is made into whether the arbitrator made erroneous findings of fact or conclusions of law. ... ‘This strict standard of review is highly deferential to the decision of an arbitrator, and it reflects a strong public policy in the Commonwealth in favor of arbitration.’ ...

“Where, as here, in proceedings before the Probate and Family Court, parties freely, and with the advice of counsel, enter into arbitration agreements to resolve conflicts outside of that court, we see no reason to depart from these well-settled principles of law. ...”

By: Tom Egan