CASE BRIEF SUPPLEMENT
TO ACCOMPANY

THE LEGAL AND REGULATORY ENVIRONMENT OF BUSINESS

NINTH EDITION

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HAVENS REALTY CORP. v. COLEMAN

102 S.Ct. 1114 (1982)

FACTS The Fair Housing Act of 1968 outlaws discrimination in housing and authorizes civil suits to enforce the law. Suit was filed against the defendant operator of two apartment complexes alleging "racial steering" in violation of the law. Plaintiffs were testers who never intended to rent an apartment. Coleman, who is black, was told that no apartments were available, but Willis, who is white, was told that there were vacancies. In fact, there were apartments available for rent. The district court held that the plaintiffs lacked standing and dismissed the suit.

ISSUE Did either party have standing to sue under the Fair Housing Act?

DECISION Coleman has standing, but Willis does not.

REASONS 1. Despite the fact that the "testers" had no intent to rent the apartments, in the Fair Housing Act Congress prohibited misrepresentation to "*any* person." Therefore all persons have a legal right to truthful information.

2. Because Congress, in this housing act, intended to give standing the fullest extent possible, a plaintiff must simply allege that the defendant's actions resulted in a distinct injury.

3. Since Coleman received false information, he can properly allege that the defendants injured him. Since Willis received accurate information, he cannot properly allege a violation of the Fair Housing Act.

4. Thus, the black tester has standing to sue, but since the white tester received no false information, he lacks standing.

WORLD-WIDE VOLKSWAGEN CORP. v. WOODSON

100 S.Ct. 559 (1980)

FACTS The plaintiff had purchased an automobile from a retailer in the state of New York. While driving in Oklahoma, the plaintiff was involved in an accident that caused the automobile to explode. The plaintiff filed a product liability suit in a state court of Oklahoma to recover for personal injuries sustained in an automobile accident in Oklahoma. The defendant retailer and wholesaler were New York corporations that did no business in Oklahoma. They were served under the Oklahoma long-arm statute, and they objected to the court's jurisdiction.

ISSUE Does due process allow the Oklahoma court to assert jurisdiction over these nonresident New York defendants?

DECISION No.

REASONS **1.** A state court may exercise personal jurisdiction over a nonresident defendant only so long as there exist "minimum contracts" between the defendant and the forum state.

2. The defendant's contacts with the forum state must be such that maintenance of the suit does not offend traditional notions of fair play and substantial justice. The relationship between the defendant and the forum must be such that it is reasonable to require the corporation to defend the particular suit that is brought there.

3. The due process clause does not contemplate that a state may make binding a judgment in personam (against the person) against an individual or corporate defendant with which the state has no contacts, ties, or relations.

4. The concept of minimum contracts performs two related but distinguishable functions. It protects the defendant against the burdens of litigating in a distant or inconvenient forum. It also acts to ensure that the states through their courts do not reach out beyond the limits imposed on them by their status as coequal sovereigns in a federal system.

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EDMONSON v. LEESVILLE CONCRETE COMPANY, INC.

111 S.Ct. 2077 (1991)

FACTS Edmonson, a black construction worker employed by Leesville, was injured when a company-owned truck rolled backward and pinned Edmonson against some construction equipment. Edmonson sued Leesville on a negligence claim. During voir dire, Leesville used two of its three peremptory challenges to remove black persons from the prospective jury. Edmonson asked the district court judge to require that Leesville explain a race-neutral basis for striking the two jurors. The judge refused Edmonson's request, and a jury of eleven white persons and one black person awarded Edmonson only $18,000. Edmonson appealed.

ISSUE May a private litigant in a civil trial use peremptory challenges to strike potential jurors on the basis of race?

DECISION No.

REASONS **1.** Discrimination on the basis of race in selecting a jury in a civil proceeding harms the excluded juror no less than discrimination in a criminal trial.

2. The Constitution's protections of individual liberty and equal protection apply in general only to action by the government. By their very nature, peremptory challenges have no significance outside a court of law. Their sole purpose is to permit litigants to assist the government in the selection of an impartial trier of fact.

3. Peremptory challenges are permitted only when the government, by statute or decisional law, deems it appropriate to allow parties to exclude a given number of persons who otherwise would satisfy the requirements for service on the petit jury.

4. The trial judge exercises substantial control over voir dire in the federal system. The judge determines the range of information that may be discovered about a prospective juror and so affects the exercise of both challenges for cause and peremptory challenges. In some cases, judges may even conduct the entire voir dire by themselves.

5. A private entity becomes a government actor for the limited purpose of using peremptories during jury selection. The selection of jurors represents a unique governmental function delegated to private litigants by the government and attributable to the government for purposes of invoking constitutional protections against discrimination by reason of race.

6. Race discrimination within the courtroom raises serious questions as to the fairness of the proceedings conducted there. Racial bias mars the integrity of the judicial system and prevents the idea of democratic government from becoming a reality.

7. Therefore, the district court judge erred in refusing to require Leesville to explain a race-neutral basis for striking black prospective jurors.

SAFEWAY STORES, INC. v. WILLMON

708 S.W.2d 623 (Ark. 1986)

FACTS While a customer in a Safeway Store, Willmon was pushing a shopping cart down an aisle. She slipped on a liquid substance, fell, and sustained injuries. Willmon sued Safeway. At the trial there was no evidence that the liquid was other than water and no evidence of its origin or how long it had been there. There was no evidence that store employees knew of its presence. Safeway moved for a directed verdict in its favor.

ISSUE Is this defendant entitled to a directed verdict?

DECISION Yes.

REASONS 1. The mere fact that a customer slips and falls in a store does not raise an inference of negligence.

2. To establish liability of the store owner to a customer, that customer must prove that the presence of the foreign substance on the floor was the result of negligence on the part of a store employee.

3. In the alternative, the customer could prove that the substance had been on the floor for such a length of time that the storekeeper knew, or reasonably should have known, of its presence and failed to use ordinary care to remove it.

4. In this case, the plaintiff/customer did not prove anything beyond the fact that she slipped and fell.

5. Therefore, a directed verdict in favor of the defendant/store is proper.

ANDERSON v. CITY OF BESSEMER CITY, N.C.

105 S.Ct. 1504 (1985)

FACTS Bessemer City decided to hire a new recreation director. A committee of four men and one woman was responsible for choosing the director. Eight persons applied for the position. Anderson was the only woman applicant. She was a thirty-nine-year-old schoolteacher with college degrees in social studies and education. The committee chose a twenty-four-year-old male applicant who had recently graduated from college with a degree in physical education. The four men voted to offer the job to him and only the woman voted for Anderson. Anderson sued the City alleging sexual discrimination. The district court found that Anderson had been denied the position because of her sex, that she was the most qualified candidate, that she had been asked questions during her interview regarding her spouse's feelings about her application for the position that other applicants were not asked, and that the male committee members were biased against hiring a woman. On appeal, the Court of Appeals reversed, holding that the district court's findings were clearly erroneous.

ISSUE Did the Court of Appeals err in holding the finding of discrimination to be clearly erroneous?

DECISION Yes.

REASONS **1.** A finding is "clearly erroneous" when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.

2. This standard plainly does not entitle a reviewing court to reverse the finding of the trier of fact simply because it is convinced that it would have decided the case differently.

3. In applying the clearly erroneous standard to the findings of a district court sitting without a jury, appellate courts must constantly have in mind that their function is not to decide factual issues de novo. If the district court's account of the evidence is plausible in light of the record viewed in its entirety, the Court of Appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently. Where there are two permissible views of the evidence, the fact finder's choice between them cannot be clearly erroneous.

4. When findings are based on determinations regarding the credibility of witnesses, greater deference must be given to the district court's findings. Only the trial judge can be aware of the variations in demeanor and tone of voice that bear so heavily on the listener's understanding of and belief in what is said.

5. The district court determined that Anderson was better qualified and entitled to deference notwithstanding that it is not based on credibility determinations. When the record is examined in light of the appropriately deferential standard, it is apparent that it contains nothing that mandates a finding that the district court's conclusion was clearly erroneous.

CUMMINGS v. DRESHER

218 N.E.2d 688 (N.Y. 1966)

FACTS There was a collision between an automobile owned by Mr. Cummings but driven by Mrs. Cummings and one driven by Bernard Dresher. Henry Dresher, the brother of the driver, was a passenger in the Dresher car. Both Bernard and Henry sued Mr. and Mrs. Cummings in the federal court for damages for their injuries. The jury in that case found Mrs. Cummings was negligent and also found Bernard Dresher was negligent. Based upon the doctrine of contributory negligence, Bernard was not allowed to collect damages. However, Henry was awarded damages since he was not the negligent driver.

Subsequently Mr. Cummings filed suit against Bernard Dresher for damages to the car sustained in the collision. This suit was brought in a state court, and Bernard Dresher sought a summary judgment on the ground of res judicata.

ISSUE Is a federal court decision res judicata for a later state court action involving the same parties and the same events?

DECISION Yes.

REASONS **1.** When a full opportunity has been provided to a party in a prior action to prove his or her freedom from liability or to establish liability on the part of another, there is no reason for permitting him or her to retry those issues.

2. In the first case, both drivers were found to be at fault. One who has had his or her day in court cannot relitigate the issues. The judgment in the first trial is conclusive.

3. Mr. Cummings could have filed a counterclaim for his property damage in the federal case. Failure to do so prevents him from relitigating the same case.

AT&T TECH., INC. v. COMMUNICATIONS WORKERS

106 S.Ct. 1415 (1986)

FACTS A collective-bargaining agreement provided that the employer was free to exercise certain management functions, including the termination of employees for lack of work. During the course of this agreement, the employer laid off seventy-nine workers. In response, the union filed a grievance claiming that there was no lack of work. The union sought arbitration of this dispute under the contract provision that differences arising over the interpretation of the agreement would be submitted to arbitration. The employer refused to submit the grievance to arbitration on the ground that the layoffs were not arbitrable. The union then sought to compel arbitration of the issue by filing suit in federal district court. The employer objected to this suit on the grounds that an arbitrator should decide whether the layoff issue should be submitted to arbitration.

ISSUE Who decides in the first instance if an issue is subject to an arbitration clause?

DECISION The courts.

REASONS **1.** Arbitration is a matter of contract, and a party cannot be required to submit to arbitration any dispute he or she has not agreed so to submit.

2. It is the court's duty to interpret the agreement and to determine whether the parties intended to arbitrate grievances concerning layoffs predicated on a lack of work as determined by the employer.

3. If the court determines that the agreement requires a dispute to be submitted to arbitration, then it is for the arbitrator to determine the relative merits of the parties' substantive interpretations of the agreement.

4. A court, in deciding the arbitrability issue, is not to rule on the potential merits of the underlying claims.

ANDERSON v. NICHOLS

359 E.E.2d 117 (W.Va. 1987)

FACTS Anderson leased land to Nichols to mine coal. The lease provides that Nichols would continue mining until all of the coal was mined. Nichols ceased mining operations and Anderson demanded arbitration as provided in the contract. Each party selected one arbitrator and the two selected chose a third. By a 2-to-1 vote, the arbitrators awarded Anderson $105,000. Nichols challenged the award alleging that the arbitrator selected by Anderson was biased.

ISSUE Is arbitrator bias a ground for setting this award aside?

DECISION No.

REASONS **1.** From the conduct of both parties it appears reasonable to infer that when they entered into their agreement to arbitrate, they envisioned that each side would name an arbitrator friendly to that side and that those two arbitrators would then name an impartial umpire.

2. Absent overt corruption or misconduct in the arbitration itself, no arbitrator appointed by a party may be challenged on the ground of his or her relationship to that party.

3. In this case, there is no allegation of outright chicanery, overt corruption, or misconduct in the arbitration itself. Thus, the award is affirmed.

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RODRIGUEZ DE QUIJAS v. SHEARSON/AMERICAN EXPRESS, INC.

109 S.Ct. 1917 (1989)

FACTS Individuals invested approximately $400,000 with Shearson/American Express. They signed a standard customer agreement with the broker, which included a clause stating that the parties agreed to settle any controversies relating to the accounts through binding arbitration that complies with specified procedures. The agreement to arbitrate these controversies is unqualified, unless it is found to be unenforceable under federal or state law. The investments turned sour, and petitioners eventually sued the respondent and its broker-agent in charge of the accounts, alleging that their money was lost in unauthorized and fraudulent transactions. In their complaint they pleaded various violations of federal and state law. Shearson/American Express argued that these lawsuits should be dismissed since the investors' claims were subject to arbitration. The trial court refused to dismiss the lawsuits on the grounds that Section 14 of the 1933 Securities Act voided any agreement whereby investors waived their rights, including the right to sue, under the federal law.

ISSUE Is a predispute agreement to arbitrate claims arising under the 1933 Securities Act enforceable?

DECISION Yes.

REASONS 1. Historically, courts viewed parties' agreements to arbitrate with judicial hostility.

2. That view has been steadily eroded over the years, especially with recent decisions upholding agreements to arbitrate federal claims raised under the 1934 Securities Exchange Act, under the Racketeer Influenced and Corrupt Organizations Act (RICO) statutes, and under the antitrust laws.

3. By agreeing to arbitrate a statutory claim, a party does not forego the substantive rights afforded by the statute; it only submits to their resolution in an arbitral, rather than a judicial, forum.

4. Resorting to the arbitration process does not inherently undermine any of the substantive rights afforded to the parties under the Securities Act.

5. Thus, the lawsuits should be dismissed and arbitration ordered as the proper means of resolving the disputes.

SOUTHLAND CORP. v. KEATING

104 S.Ct. 852 (1984)

FACTS The Southland Corporation is the owner and franchisor of 7-Eleven convenience stores. The franchise agreement entered into with franchisees included an agreement to settle claims arising from the agreement or breach of the agreement in accordance with Rules of the American Arbitration Association. This clause is covered by the Federal Arbitration Act. When several franchisees sued Southland in California superior court alleging violation of the California Franchise Investment Law, Southland asserted the affirmative defense of failure to arbitrate. The franchisees argued that the California Franchise Investment Law invalidated the arbitration clause and allowed the lawsuit to proceed.

ISSUE Does the California Franchise Investment Law violate the Supremacy Clause of the U.S. Constitution?

DECISION Yes.

REASONS 1. In enacting the Federal Arbitration Act, Congress declared a national policy favoring arbitration. The power of the states to require a judicial forum for the resolution of claims the contracting parties agreed to resolve by arbitration is removed by the federal act.

2. Congress intended to create a right to enforce an arbitration contract. In creating this right, Congress did not make the right dependent for its enforcement on the particular forum in which it is asserted. Neither did Congress intend to limit the Federal Arbitration Act only to federal court jurisdiction.

3. Congress intended to foreclose state legislative attempts to undercut the enforceability of arbitration agreements.

4. Thus, the California law that purports to invalidate the arbitration clause in this contract is void.

PERRY v. THOMAS

107 S.Ct. 2520 (1987)

FACTS Thomas sued his former employer for commissions due on security sales. His contract contained a provision requiring arbitration of any dispute with his employer. The employer sought to compel Thomas to submit the dispute to arbitration under the Federal Arbitration Act. The California Labor Code Section 229 provides that wage collection lawsuits may be maintained without regard to the existence of any private agreement to arbitrate. When the employer objected to the lawsuit being filed, the California court refused to compel arbitration.

ISSUE Does Section 2 of the Federal Arbitration Act, which mandates enforcement of arbitration agreements, preempt Section 229 of the California Labor Code, which provides that actions for the collection of wages may be maintained "without regard to the existence of any private agreement to arbitrate"?

DECISION Yes.

REASONS 1. In enacting Section 2 of the Federal Arbitration Act, Congress declared a national policy favoring arbitration and withdrew the power of the states to require a judicial forum for the resolution of claims the contracting parties agreed to resolve by arbitration.

2. Congress intended to foreclose state legislative attempts to undercut the enforceability of arbitration agreements.

3. Section 229 of the California Labor Act is in unmistakable conflict with this clear federal policy in that the state law provides for a judicial forum for resolving conflicts while the federal policy favors arbitration.

4. Therefore, under the supremacy clause the state statute must give way to the Federal Arbitration Act.

UNITED PAPERWORKERS INTERN. UNION v. MISCO, INC.

108 S.Ct. 364 (1987)

FACTS A collective-bargaining agreement authorized arbitration of any grievance that arose from the interpretation or application of the agreement's terms. Management retained the right to enforce rules regulating employee discharge and discipline including discharge for possession or use of controlled substances on company property. Cooper, who operated a hazardous machine, was apprehended by police in the backseat of someone else's car in the company parking lot with marijuana smoke in the air and a lighted cigarette in the front-seat ashtray.

The company discharged Cooper for violation of the disciplinary rule. He filed a grievance that proceeded to arbitration on the issue of whether there was just cause for the discharge. The arbitrator upheld the grievance and ordered reinstatement with back pay, finding that the cigarette incident was insufficient proof that Cooper was using or possessed marijuana on company property. The company appealed this award, and the court vacated the arbitration award. The court concluded that reinstatement would violate the public policy against the operation of dangerous machinery by persons under the influence of drugs or alcohol.

ISSUE Was the court justified in setting aside the award?

DECISION No.

REASONS **1.** Courts play only a limited role when asked to review the decision of an arbitrator. The courts are not authorized to reconsider the merits of an award even though the parties may allege that the award rests on errors of fact or on misinterpretation of the contract.

2. As long as the arbitrator's award draws its essence from the collective-bargaining agreement and is not merely his or her own brand of industrial justice, the award is legitimate.

3. An arbitrator must find facts, and a court may not reject those findings simply because it disagrees with them. The same is true of the arbitrator's interpretation of the contract.

4. Even though a court is convinced that an arbitrator has committed a serious error, the award cannot be disturbed as long as the arbitrator is found to be construing or applying the contract and acting within the scope of submission.

5. Just because common sense supports the public policy that dangerous machinery should not be operated while under the influence of drugs, the arbitrator's award does not contradict established, well-defined public policy. Thus, the court is not permitted to set aside such an award.

PIONEER REALTY AND LAND COMPANY v. MORTGAGE PLUS

346 N.W.2d 286 (N.D. 1984)

FACTS Prospective home buyers applied for mortgages with Mortgage Plus. At the time of application, Mortgage Plus told the home buyers that its interest rate was 11½ percent. While the applications were being processed, Mortgage Plus raised its rate and refused to honor the 11½ percent rate. The home buyers then got their loans elsewhere and had to pay more than 11½ percent. They sued Mortgage Plus, claiming that Mortgage Plus breached its offer to lend money to qualified buyers at 11½ percent.

ISSUE Did Mortgage Plus offer to lend money to these home buyers at 11½ percent interest?

DECISION No.

REASONS 1. An offer requires a willingness to be legally bound.

2. Mortgage Plus did not display a willingness to be bound to provide a loan at 11½ percent following approval of home buyers' applications. It simply informed potential borrowers of the rate it was demanding at the time they filled out their applications. Mortgage Plus did not promise that the rate would remain at 11½ percent until the loans were approved.

HILL-SHAFER PARTNERSHIP v. CHILSON FAMILY TRUST

799 P.2d 810 (Ariz. 1990)

FACTS The Chilson Family Trust (seller) owns approximately 20 acres of land near Flagstaff, Arizona, on Butler Avenue. Butler Avenue divides about 17.3 acres of the land into two parcels called Butler North and Butler South. A third parcel called the Triangle is a 2.4-acre piece of land north of Butler North.

Hill-Shafer Partnership (buyer) offered to buy from the seller 15 acres of land north of Butler Avenue, which includes Butler North and the Triangle. The offer proposed that the $620,500 price of the land be reduced if a survey showed that the land contained less than 15 acres. The seller rejected the offer and counteroffered at the same price, insisting that the land be identified by legal description alone, with no possible price reduction. The buyer accepted the offer.

Through error the seller's offer legally described Butler North and Butler South rather than Butler North and the Triangle. When the seller discovered the error, it proposed to change the contract to contain a legal description of Butler North and the Triangle instead of the larger piece of land called Butler North and Butler South. The buyer refused and sued the seller for specific performance of the contract according to the legal description.

ISSUE Should the seller be obligated to sell the land as legally described?

DECISION No.

REASONS **1.** Before a binding contract is formed, the parties must mutually consent to all material terms. This principle is well established by the case of *Raffles v. Wichelhaus* (an English case of 1864).

2. Here the seller believed the description contained in the offer described the property that had been discussed. It did not. When the buyer accepted only the legal description of the offer, it did not accept what the seller believed it was offering. There was no mutual consent; thus there is no binding contract.

3. Had the buyer intended to accept the property that had been discussed, which was the property that the seller intended to offer, the court could reform the contract terms. Then a binding contract would exist.

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