

First Circuit Affirms Denial of a Motion to Compel Arbitration Based on Principles of Collateral Estoppel



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In a procedurally complex case, the First Circuit reviewed the lower court’s denial of a motion to compel arbitration based on principles of collateral estoppel. In 2007, two plaintiffs sought legal representation to pursue a products liability claim. They signed an Attorney Representation Agreement (“ARA”) with the Johnson Law Firm (“JLF”), who later involved local counsel to assist them with the matter. Importantly, the ARA contained an arbitration provision, although the paragraphs related to arbitration in the ARA were not initialed by the plaintiffs. After the case settled, a dispute arose between the plaintiffs, JLF, and local counsel John Deaton (“Deaton”).

JLF initiated an arbitration proceeding with the plaintiffs in Texas. The plaintiffs challenged the validity of the arbitration agreement because the “uninitialed arbitration paragraphs in the ARA were of no effect.” The arbitrator agreed and dismissed the proceeding, finding that the arbitration provision was not valid and enforceable.

The plaintiffs later sued JLF and Deaton in Rhode Island state court, bringing malpractice and other tort claims. The defendants removed the action to the U.S. District Court for the District of Rhode Island and moved to compel arbitration. The district court found that the validity of the arbitration agreement was previously addressed during the initial arbitration proceeding, and principles of collateral estoppel precluded any attempts to invoke the arbitration provision of the ARA. The

motion to compel arbitration was denied.

On appeal, the First Circuit affirmed the decision of the lower court, finding that the district court properly applied the principles of collateral estoppel to the issue of arbitrability, and that the arbitrator had the proper authority to make a determination about the arbitrability of the claims at issue. The case was remanded for further proceedings.

[*Patton v. Johnson, Case No. 18-1750*](#) (1st Cir. Feb. 11, 2019).

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