

Alabama District Court Enforces Arbitration Clause Related to Disability Policy Over Unconscionability Claim

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The U.S. District Court for the Northern District of Alabama has compelled arbitration despite a former employee's claim that the arbitration clause in the policy at issue was unconscionable under the circumstances related to her disability claim.

Laura A. Thompson claimed to be disabled and sought benefits under a policy issued by Generali Worldwide Insurance Co. Limited. The policy was issued to the retirement plan trustee of a nongovernmental association. Thompson indirectly worked for the association as an employee of one of the association's subsidiaries. Generali sought to compel arbitration. Thompson claimed the policy's arbitration clause was unconscionable and therefore unenforceable. The basis of her claim was that she had no meaningful choice whether to accept or reject the clause and it would be cost prohibitive for her to travel to London to arbitrate her claim in accordance with the clause.

The court disagreed. First, it noted that Thompson was not a party to the policy; the policy was between Generali and the retirement plan trustee. Nothing suggested that the trustee was forced to accept the arbitration clause or that the trustee had unequal bargaining power. The court also noted that nothing prohibited Thompson from purchasing her own long-term disability policy. Second, Thompson's claim that it would be prohibitively expensive for her to arbitrate her claim was disproven by her own complaint, which alleged that she was entitled to more than \$1.3 million. Moreover, the arbitration rules allowed examination through telecommunication and the issue on the merits (whether Thompson was covered despite the fact that she was no longer employed by the covered employer) would not require much evidence.

As is the case in most jurisdictions, the standard for unconscionability under Alabama law is very high. The facts of this case did not meet that high standard. The court therefore granted Generali's motion to compel arbitration with respect to Thompson's dispute.

[*Thompson v. Generali Worldwide Ins. Co.*](#), No. 3:18-cv-011260 (N.D. Ala. June 7, 2019).

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