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Husch Blackwell Prevails in Case Defending Rights of Parties in Private Arbitration

WISCONSIN SUPREME COURT REINFORCES LIMITS OF COURT AUTHORITY OVER ARBITRATION

Husch Blackwell secured a victory before the Wisconsin Supreme Court on behalf of CityDeck Landing, LLC, in a matter that will have a lasting impact in multiple areas of law.

CityDeck was engaged in private arbitration with a contractor and related subcontractors concerning a dispute over the construction of an apartment building in Green Bay, Wisconsin. With the arbitration pending, a subcontractor's insurer filed a separate action in state circuit court, seeking a declaration regarding its coverage obligations, as well as a stay of the arbitration until the coverage issues were resolved. The circuit court granted the insurer's request and ordered the arbitration stayed.

The heart of the issue in the circuit court for CityDeck was whether a Wisconsin circuit court has authority to stay a private arbitration, especially given that the circuit court action and the arbitration involved different issues and different parties. After exhausting options in the circuit court to have the stay lifted, CityDeck filed a petition for a rare supervisory writ with the Wisconsin Supreme Court, which was accepted.

In addressing the issue, the state Supreme Court agreed with CityDeck's position. Relying on decades of precedent, the Court reaffirmed that a trial court possesses only limited, statutory powers with respect to private arbitration. The Court held that "[n]othing in the statutes," authorizes a circuit court "to halt a private arbitration so that an insurance company can litigate

whether its policy provides coverage to an insured.” As CityDeck had pointed out, the circuit court in this case also “compounded its error by stopping an arbitration proceeding involving three parties who were not participating in the court case at all and therefore had no opportunity to be heard on an order that affected their rights.” At bottom, the stay “deprived” CityDeck “of the benefits of its bargained-for method of dispute resolution.”

The *CityDeck* decision will likely serve as leading authority on two points of Wisconsin law going forward. First, the Court’s opinion unequivocally endorses the rights of private parties to choose arbitration to resolve their disputes, free from interference by courts or third parties. Second, in addition to ruling in CityDeck’s favor on the merits, the Court also clarified the procedure and standards for obtaining a supervisory writ under the Wisconsin Constitution and state statutes.

The Husch Blackwell team was led by Eric McLeod and included Paul Cranley, Joseph Diedrich, and Samantha Schacht.