

CASE STUDY



CityDeck Landing LLC

GREEN BAY, WIOVERVIEW

What began as a private arbitration regarding a dispute over the construction of an apartment building in Green Bay turned into a case with much larger implications when a subcontractor's insurer filed a separate action in Wisconsin state circuit court seeking a declaration regarding its coverage obligations, as well as a stay of the arbitration until the coverage issues were resolved.

Challenges

As one might expect, our client simply wanted its day before the arbitrator to resolve its outstanding dispute, but the insurance company's tactics prevented a straightforward resolution by having a circuit court agree—despite decades of established case law—to stay the private arbitration. At that point we had no choice but to take the state-court litigation head on. With the ordinary set of options before the circuit court exhausted, extraordinary measures were called for.

Solution

We guided our client through the process of filing a rare petition for a supervisory writ with the Wisconsin Supreme Court in which we outlined our understanding of the trial court's limited, statutory powers with respect to private arbitration, arguing in effect that the trial court's decision had outstripped its authority in the matter.

Industry

Real Estate, Development, & Construction

Services

Appellate
Litigation & Alternative Dispute Resolution

Legal Team

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Result

In addressing the issue, the state Supreme Court agreed with CityDeck's position. Relying on decades of precedent, the Court reaffirmed the boundaries of the trial court's power. 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.