LCF Group, Inc. v Bubba Jay's Smash Burgers, LLC
2025 NY Slip Op 35262(U)
November 14, 2025
Supreme Court, Nassau County
Docket Number: Index No. 617058/25
Judge: Gregg Roth
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

SUPREME COURT - STATE OF NEW YORK

PRESENT:

Honorable Gregg Roth
Justice of the Supreme Court

_____x

THE LCF GROUP, INC.,

Petitioner,

-against-

BUBBA JAY'S SMASH BURGERS, LLC d/b/a BUBBA JAY'S SMASH BURGERS, MDM LANDSCAPING SERVICES, and MICHAEL D MAACKS,

Respondents.

_____x

TRIAL/IAS, PART 29
NASSAU COUNTY

Index No. 617058/25

Mot. Seq. 001
Motion submitted 9/12/25

The following papers read on this motion:

Notice of Petition/Supporting Exhibits.....X

Petitioner, The LCF Group, Inc. (LCF) petitions this court to confirm an arbitrator's award. There is no opposition.

According to the petition and supporting papers, on or about March 24, 2025, LCF and Bubba Jay's Smash Burgers, LLC d/b/a Bubba Jay's Smash Burgers (BJSB) entered into an agreement whereby LCF agreed to purchase $20,860.00 of BJSB's future receivables for an up front payment of $14,000.00. LCF would receive its payment by taking 12.00% of daily receivables from a certain bank account, until it received the $20,860.00. Respondents MDM Landscaping Services (MDM) and Michael D. Maacks (Maacks), guaranteed the contract.

The contract also contained an arbitration clause. Should there be a dispute, the parties were required to submit the dispute to New Era ADR. LCF claims that it made the payment minus contractual fees. Respondents made no payments before stopping LCF's access to the bank account. As a result, LCF brought a proceeding through New Era ADR. Respondents did not appear for the arbitration, and after the hearing, the arbitrator awarded LCF $32,882.64 representing the unpaid receivables and other costs and fees. LCF now moves to confirm the award.

"[J]judicial review of arbitration awards is extremely limited" (*Matter of Sheriff Officers Assn., Inc. v Nassau County*, 113 AD3d 620, 621 [2d Dept 2014], quoting *Wien & Malkin LLP v Helmsley–Spear, Inc.*, 6 NY3d 471, 479 [2006]). In determining any matter arising under CPLR article 75, "the court shall not consider whether the claim with respect to which arbitration is sought is tenable, or otherwise pass upon the merits of the dispute" (CPLR 7501). Accordingly, it is "'not for the courts to interpret the substantive conditions of the contract or to determine the merits of the dispute'" *(Matter of United Fed'n. of Teachers, Local 2, AFT, AFL–CIO v Board of Educ. of City School Dist. of City of N.Y.*, 1 NY3d 72, 82–83 [2003], quoting *Board of Educ., Lakeland Cent. School Dist. of Shrub Oak v Barni*, 51 NY2d 894 [1980]). "An arbitration award must be upheld when the arbitrator 'offer[s] even a barely colorable justification for the outcome reached'" (*Wien & Malkin LLP v Helmsley–Spear, Inc.*, 6 NY3d at 479, quoting *Matter of Andros Compania Maritima, S.A. [Marc Rich & Co., A.G.]*, 579 F2d 691, 704 [2d Cir 1978]).

The Court of Appeals has recognized "three narrow grounds that may form the basis for vacating an arbitrator's award—that it violates public policy, is irrational, or clearly

exceeds a specifically enumerated limitation on the arbitrator's power" (*Matter of Shenendehowa Cent. Sch. Dist. Bd. of Educ. [Civil Serv. Empls. Assn., Inc., Local 1000, AFSCME, AFL–CIO, Local 864]*, 20 NY3d 1026, 1027 [2013]; *see Matter of New York City Tr. Auth. v Transport Workers Union of Am., Local 100*, 14 NY3d 119, 124 [2010]).

The petition to confirm will be denied as the court finds the arbitrator's award irrational and violative of public policy. The award of $ $32,882.64 is nearly three times the amount of money respondents actually received. Aside from the unpaid receivables, LCF charged a $2,500.00 default fee, $2,500.00 stop payment fee, and $70.00 for insufficient fund fees. On top of that are "collection fees" of $6,952.64, which are 33.33% of the amount owed. The contract between the parties provides for recovery of "reasonable attorney's fees" and for collection fees "liquidated at the sum of 33.33%" of the amount owed. In the Arbitration Statement of Robert Kleiber, Chief Financial Officer of LCF, it is made clear that the collection fees and attorney's fees are one and the same. The Payment History submitted by LCF describes the entry of $6,952.64 as "Legal Fees". Despite the labels provided, by basing the amount of counsel/collection fees on the amount owed, as opposed to work actually performed, the court sees the fees as liquidated damages that are really an inappropriate penalty for the default, and therefore void as against public policy (*see Truck Rent-A-Ctr. v Puritan Farms 2nd*, 41 NY2d 420 [1977]; *Equitable Lumber Corp., supra*, 38 NY2d 516 [1976] and *Matter of First Nat'l. Bank of E. Islip,* 42 NY2d 471, 474 [1977]). In total, the fees increased the amount of the arbitration award by more than 50% over the amount of actual unpaid receivables. Under the circumstances of this case, the court finds the award irrational.

Accordingly, it is hereby

ORDERED, that the petition is DENIED.

This constitutes the Decision and Order of the court.

Dated: November 14, 2025
Mineola, N.Y.

Hon. Gregg Roth, J.S.C.