

Country-Wide Ins. Co. v QBS Solutions Inc
2022 NY Slip Op 30592(U)
February 23, 2022
Supreme Court, New York County
Docket Number: Index No. 650239/2022
Judge: Arlene Bluth
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARLENE BLUTH PART 14

Justice

-----X

COUNTRY-WIDE INSURANCE COMPANY

Petitioner,

- v -

QBS SOLUTIONS INC,

Respondent.

-----X

INDEX NO. 650239/2022

MOTION DATE 02/22/2022

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 9, 10, 11, 12, 13, 14, 15

were read on this motion to/for VACATE - AWARD

The petition to vacate an arbitrator's award dated August 3, 2021 and a Master Arbitration Award dated October 15, 2021 is denied. This Court denies petitioner's request to reject the subject awards, which were rational, just because some other arbitrator ruled differently in some other case with some other medical provider.

Background

In this proceeding, petitioner seeks to vacate arbitration awards relating to an automobile accident involving nonparty Martin Marlon (who was driving a car insured by petitioner). Marlon alleged that he received healthcare from respondent for his injuries from the accident and petitioner sought to disclaim coverage for these injuries and argued that Marlon caused his own injuries.

Both a lower and master arbitrator disagreed with petitioner's view and awarded respondent \$1,346.76. Petitioner claims that the arbitrators should have been bound by another

arbitration in which another medical services provider was denied coverage for injuries to Marlon arising out of the same accident.

In opposition, respondent claims that neither the arbitrators nor this Court are bound by a decision in another arbitration. It argues that collateral estoppel does not apply because it was not a party to that other arbitration and prior precedent does not compel this Court to abide by one arbitrator's decision over another.

In reply, petitioner argues that the arbitrator's decision was arbitrary and capricious and must be vacated based on the doctrine of collateral estoppel.

Discussion

“It is well settled that a court may vacate an arbitration award only if it violates a strong public policy, is irrational, or clearly exceeds a specifically enumerated limitation on the arbitrator's power” (*In re Falzone (New York Cent. Mut. Fire Ins. Co.)*, 15 NY3d 530, 534, 914 NYS2d 67 [2010]). “[I]f a court makes an error and fails to properly apply collateral estoppel, the issue can be reviewed and corrected on appeal. By contrast, if an arbitrator erred in not applying collateral estoppel, the general limitation on judicial review of arbitral awards precludes a court from disturbing the decision unless the resulting arbitral award violates a strong public policy, is irrational, or clearly exceeds a specifically enumerated limitation on the arbitrator's power” (*id.* at 535).

Here, the Court denies the petition and confirms the award. The lower arbitrator's award and the master arbitration award considered a fact-specific set of circumstances and simply reached a different conclusion than the other arbitration. The lower arbitrator disputed respondent's account of the incident, noted the discrepancies in the investigator for respondent's version of events and the lack of corroborating evidence (NYSCEF Doc. No. 3 at 4). The master

arbitrator agreed and also noted that the lower arbitrator correctly disregarded claims about collateral estoppel and res judicata due to the fact that there was no privity between the parties (NYSCEF Doc. No. 6 at 2).

In other words, respondent's claim that Marlon committed fraud was not credited by the arbitrators and it is not this Court's role to second guess that conclusion. Nothing respondent submitted here demonstrates that petitioner satisfied any of the criteria for vacating an arbitrator's award. Rather, it seems that petitioner merely disagrees with the decisions; that is not a basis to vacate the awards. And, as stated above, this Court cannot review an application or alleged misapplication of collateral estoppel or res judicate unless certain circumstances are present. Those situations are not present here. The Court finds that the arbitrators considered the facts presented before them and reached a rational conclusion. Whether this Court would have reached the same conclusion is irrelevant.

Because the Court denies the petition to vacate, it must confirm the underlying award (CPLR 7511[e]). The Court also grants respondent's demand for legal fees in the amount of \$500—this amount is inherently reasonable for opposing the instant petition. Respondent is also awarded the applicable fees and interest under the insurance regulations as detailed below.

Accordingly, it is hereby

ADJUDGED that the petition is denied and the arbitration awards issued on August 3, 2021 and October 15, 2021 are hereby confirmed; and it is further

ORDERED that the Clerk is directed to enter judgment in favor of respondent and against petitioner in the amount of \$1,346.76 plus statutory interest at the rate of two percent pursuant to 11 NYCRR 65-3.9(a) from February 5, 2020, statutory attorney's fees in connection with the arbitration pursuant to 11 NYCRR 65-4.6(b) (which amounts to 20% of the total amount of first-

party benefits plus interest up to a maximum of \$1,360), an arbitration filing fee of \$40 pursuant to 11 NYCRR 65-4.5(s)(1) and reasonable legal fees in the amount of \$500 pursuant to 11 NYCRR 4.10(j)(4) for opposing this petition along with costs and disbursements related to this proceeding upon presentation of proper papers therefor.

2/23/2022
DATE


ARLENE BLUTH, J.S.C.

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
			<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	OTHER
			<input type="checkbox"/>	REFERENCE