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### **Sixth Circuit Upholds Manifest Disregard of the Law Standard**

Since the United States Supreme Court's decision in *Hall Street Associates, LLC v Mattel, Inc.*, which limited the bases under which an arbitration award can be challenged to those expressly contained in the Federal Arbitration Act, there has been a split among the circuit courts as to whether the judicially created manifest disregard of the law standard is still a valid basis to challenge an arbitration award. In *Ozormoor v. T-Mobile USA, Inc.* the Sixth Circuit weighed in on the debate. The plaintiff in that case brought claims for breach of contract, intentional infliction of emotional distress, defamation and violation of the Michigan Consumer Protection Act against his former wireless carrier, T-Mobile. The contracts between the plaintiff and T-Mobile contained broad arbitration provisions, and T-Mobile compelled the plaintiff to arbitrate his claims.

The parties engaged in an arbitration hearing and ultimately the arbitrator ruled against the plaintiff on each of his claims. The plaintiff then went back to court to vacate the arbitration agreement. The district court confirmed the award and the plaintiff appealed. One of the plaintiff's assertions on appeal was that the arbitrator acted in manifest disregard of the law. The Court acknowledged that there is some doubt as to whether this remains a cognizable basis to vacate an arbitration award after the *Hall Street* decision, but noted that the Supreme Court did not expressly reject the theory in its subsequent decision of *Stolt-Nielsen, S.A. v. Animal Feeds Int'l.* Based on this, the court held that the manifest disregard standard was still a valid basis to vacate an arbitration award and applied the standard to the plaintiff's claims.

According to Sixth Circuit jurisprudence, under the manifest disregard of the law standard, a court can set aside an arbitrator's decision only if, after applying clearly established legal precedent, no judge could conceivably come to the same determination. The plaintiff asserted that the arbitrator manifestly disregarded the law in two ways. He first contended that the arbitrator misapplied the statute of limitations for his Michigan Consumer Protection Act claim by applying the one year limitations period contained in the contract instead of the six year period contained in the statute. The court rejected this argument because Michigan law allows parties to agree to a shorter limitations period by contract. Second, the plaintiff argued that the arbitrator erred by dismissing his emotional distress and defamation claims. The arbitrator concluded that because these claims arose out of and were premised on the breach of contract claim, they violated Michigan law which requires tort claims alleged in a "contractual setting" to "rest on a breach of duty distinct from [the] contract." The court disagreed with this argument, holding that much of the plaintiff's tort claims were based directly on the contract, while it was "debatable" whether the remainder arose from the service agreement or not. Regardless, the court held that the plaintiff had not shown that the arbitrator consciously ignored "clearly defined" legal authority in reaching his decision, as he must to establish a manifest disregard of the law.

For more information on this topic, please contact Scott Hanfling, [shanfling@kfplegal.com](mailto:shanfling@kfplegal.com).