

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE ex rel.)	
TODD HEWITT,)	No. ED100479
)	
Relator,)	Cause No. 12SL-CC01973
)	
vs.)	
)	
HONORABLE KRISTINE KERR,)	
Judge, Circuit Court for)	Writ of Mandamus
St. Louis County Missouri,)	
)	
Respondent.)	Filed: October 22, 2013

Relator, Todd Hewitt, (“Hewitt”) seeks to direct the trial court (“Respondent”) to deny a motion to compel arbitration filed by defendant, the St. Louis Rams Partnership (“the Rams”) in an employment action pending before the trial court. The trial court had previously ruled that the parties in the matter before it should proceed with arbitration as provided in the employment agreement between Hewitt and the Rams. This Court entered a preliminary order in mandamus staying all proceedings pending resolution of this writ action.

PRELIMINARY ORDER IN MANDAMUS QUASHED.

Writ Division One holds: The arbitration provision contained in the employment agreement entered into between Hewitt and the Rams provides for the arbitration of any dispute between the parties by the Commissioner of the National Football League (“Commissioner”), whose decision shall be final, binding, conclusive and unappealable. This provision is unconscionable and unenforceable because it subjects Hewitt to an arbitration proceeding that allows the selection of an arbitrator who is in a position of bias, when the arbitrator must remain unbiased. The remainder of the arbitration provision is enforceable. Relator’s petition for a writ of mandamus or writ of prohibition is denied, and the Preliminary Order in Mandamus is hereby quashed. The arbitration may proceed, consistent with this opinion, upon the selection of an impartial arbitrator by the trial court.

Opinion by: Kurt S. Odenwald, P.J., Sherri B. Sullivan, J., and Clifford H. Ahrens, J., Concur.

Attorney for Relator: Mary Anne Sedey and John D. Lynn

Attorney for Respondent: Bradley A. Winters, Michael D. Hart and Douglas J. Winters

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