

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

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| ANTONIO BOWERS, Respondent, |) | No. ED102229 |
| |) | |
| vs. |) | Appeal from the Circuit Court of |
| |) | St. Louis County |
| ASBURY ST. LOUIS LEX, LLC d/b/a |) | |
| PLAZA LEXUS, ASBURY AUTOMOTIVE |) | Honorable Barbara W. Wallace |
| GROUP, INC. and CURTIS B. YETTKE, |) | |
| Appellants. |) | Filed: July 7, 2015 |

Asbury St. Louis LEX, LLC, d/b/a Plaza Lexus and Curtis Yettke (Defendants) appeal the order of the Circuit Court of St. Louis County denying their motion to stay proceedings and compel arbitration in an employment discrimination action filed by Antonio Bowers (Plaintiff). Employers claim the trial court erred because Plaintiff executed a valid and enforceable arbitration agreement.

AFFIRMED.

Division Four Holds: Defendants' Arbitration Rules, expressly incorporated into the arbitration agreement, rendered Defendants' alleged promise to arbitrate illusory because the Arbitration Rules reserved for Defendants the unilateral right to modify the Rules upon thirty days' notice. An illusory promise does not constitute consideration to support an agreement to arbitrate. Baker v. Bristol Care, Inc., 450 S.W.3d 770, 776 (Mo. banc 2014). Because the arbitration agreement lacked adequate consideration, Defendants failed to satisfy their burden to establish the existence of a valid and enforceable arbitration agreement. Accordingly, the trial court did not err in refusing to stay the proceedings and compel arbitration.

Opinion by: Patricia L. Cohen, P.J.
Roy L. Richter, J., and Robert M. Clayton III., J., concur.

Attorney for Appellants: Whitney P. Cooney
Attorney for Respondent: James G. Nowogrocki

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.