

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DARRYL T. JONES, et al., Plaintiffs-Respondents,) No. ED97619
)
v.) Appeal from the Circuit Court
) of the City of St. Louis
) Filed: June 29, 2012
GREGG PARADIES, et al., Defendants-Appellants.)

Plaintiffs sued the defendants for tortiously interfering and conspiring to tortiously interfere with a contract. Defendants served as directors of a corporation that was bound by an arbitration agreement. But the plaintiffs sued the defendants in their individual capacity and not as agents of the corporation. The defendants sought to enforce the arbitration provision contained in the contract with the corporation, and thus moved to dismiss or stay the litigation pending arbitration. The trial court denied defendants' request, reasoning that the defendants, as individuals, were not bound by or to the contract or its arbitration clause.

JUDGMENT AFFIRMED

DIVISION TWO HOLDS: First, the defendants' motion sufficiently raised the arbitration issue before the trial court. Hence, we treat their motion as one to compel arbitration, the denial of which is appealable pursuant to Section 435.440. Second, because of briefing deficiencies, the defendants have abandoned their claim that the trial court lacked subject-matter jurisdiction. Third, because plaintiffs have sued defendants in tort, and not for breach of contract, estoppel does not lie. Fourth, defendants are not bound by or to the agreement as individuals, and therefore they are in no position to enforce that agreement. And fifth, absent an agreement to arbitrate, defendants may not compel arbitration, even if plaintiffs' tort claims in this case are "inextricably intertwined" with a hypothetical breach-of-contract claim against the corporation.

Opinion by: Lawrence E. Mooney, J. Kathianne Knaup Crane, P.J., concurs and
Kenneth M. Romines, J., concurs in result only.

Attorneys for Appellants: John L. Gianoulakis and David A. Castleman

Attorneys for Respondents: Gary R. Sarachan, Jeffrey A. Cohen, and Drey A. Cooley

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.