

IN THE SUPREME COURT OF THE STATE OF NEVADA

AL'S TRUCK CO., INC., A NEVADA
CORPORATION,
Appellant,
vs.
HUB GROUP, INC., AN ILLINOIS
CORPORATION D/B/A HUB GROUP
DISTRIBUTION SERVICES,
Respondent.

No. 39670

FILED

NOV 16 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
J. Richards
CLERK

ORDER OF AFFIRMANCE

This is an appeal from the district court's order granting respondent's motion to dismiss in a breach of contract claim. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

Respondent HUB Group Distribution Services (HGDS) entered into a contract for trucking services with Al's Truck Co. (Al's). Al's filed suit against HGDS for breach of contract and related claims in the Second Judicial District. The district court granted HGDS's motion to dismiss, finding that the parties' contract requires all disputes be resolved in Illinois.

A forum selection clause included in a contract between sophisticated entities is generally enforceable unless the clause is unreasonable or unjust.¹ A clause will be considered reasonable unless it was affected by fraud or unequal bargaining power, violates the public policy of the forum in which the suit was brought² or would require trial in

¹The Bremen v. Zapata Off-Shore Co., 407 U.S. 1, 15 (1972).

²Id.

a forum “so gravely difficult and inconvenient that [a litigant] will for all practical purposes be deprived of his day in court.”³

Although Al’s claims it was unaware of the forum selection clause in the contract, actual knowledge of the clause is irrelevant. A party that fails to examine a contract before signing, does so at its own peril.⁴ The clause was conspicuous within the contract, appearing in the same size and format as the rest of the contract and preceding the date and signature.⁵ In addition, a forum selection clause included in a contract between two sophisticated business entities can be enforced even when the parties did not specifically negotiate the clause.⁶ No evidence indicates that Al’s lacked experience with subcontracting agreements or that HGDS fraudulently induced Al’s to sign the contract.

Because we conclude that Al’s has not shown that the forum selection clause is unreasonable, the district court properly granted HGDS’s motion to dismiss.⁷ Accordingly, we

³Id. at 18.


⁴Eisaman v. Cinema Grill Systems, Inc., 87 F. Supp. 2d 446, 451 (D. Md. 1999).


⁵Cf. Tandy Computer Leasing v. Terina’s Pizza, 105 Nev. 841, 843, 784 P.2d 7, 8 (1989) (forum selection clause located in very fine print on the back of a one-page lease held to be unenforceable).

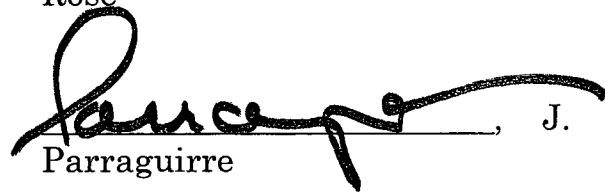
⁶See, e.g., M.B. Restaurants, Inc. v. CKE Restaurants, Inc., 183 F.3d 750, 753 (8th Cir. 1999); American Home Assur. v. TGL Container Lines, 347 F. Supp. 2d 749, 761 (N.D. Cal. 2004).

⁷We have reviewed Al’s remaining contentions and find they lack merit.

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Rose


_____, J.
Parraguirre

cc: Hon. Steven R. Kosach, District Judge
Robert E. Dickey Jr.
Beckley Singleton, Chtd./Las Vegas
Washoe District Court Clerk