

SDNY Remands Arbitration Award for Clarification and Denies Request to Keep Documents Under Seal

By: Justin K. Fortescue and Marianne Bradley
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The U.S. District Court for the Southern District of New York recently remanded *Park Avenue Life Insurance Company v. Allianz Life Insurance Company of North America* to a panel of arbitrators for clarification of its award and denied both parties' motions for confirmation. In addition, the court denied the parties' petitions to keep the arbitration documents under seal.

In the arbitration, the panel was asked to resolve a dispute between Allianz Life Insurance Company (Allianz) and Park Avenue Life Insurance Company (PALIC) after Allianz entered into an agreement with regulators to pay death benefits that would be "escheated" to a government entity after a file search indicated that an insured person had passed away. Both parties agreed that the arbitrators had largely ruled in PALIC's favor; however, disagreement arose with respect to how the award should be interpreted going forward.

In deciding to remand for clarification, the court noted that when a district court is "asked to confirm an ambiguous award," which is "susceptible to more than one interpretation," it should remand to the arbitrators for clarification. It observed that remand is appropriate only where a true ambiguity exists. The court found that the ambiguity in the award went to the very heart of the dispute, and accordingly found remand to be the only appropriate remedy. Specifically, the court instructed the arbitrators to clarify whether and to what extent PALIC is required to indemnify Allianz for the payment of death benefits by escheatment, and whether the award extends to escheatment payments previously made by PALIC or only to future payments.

The court then addressed the second, and perhaps more notable, issue involved – the parties' requests to keep arbitration documents under seal. The court began by observing that the parties had sought to maintain under seal "virtually every document filed in connection with the dispute." In concluding that there was no basis for maintaining any of the documents at issue under seal, the court noted that there is a presumption of public access to anything qualifying as a "judicial document." It explained that the presumption is "at its strongest" when the "information at issue forms the basis of the court's adjudication." Applying those standards, the court determined that the parties' confidentiality agreement – on its own – was not sufficient to overcome the strong First Amendment presumption of public access.

The case is significant as it demonstrates that even where an arbitration panel has issued its final award and may consider itself *functus officio*, courts will remand an ambiguous award to the panel for clarification. This is true even where both parties move to confirm an award – as was the case here. The parties in *Park Avenue* may have avoided such a result had they requested the arbitration panel to issue a reasoned award. While not a guarantee, there is less of a chance of a court finding an ambiguity in a reasoned award.

Further, the case reflects a growing trend that some district courts are reluctant to keep documents under seal. Courts seem to be particularly unwilling to grant broad, expansive requests to keep "virtually every document" under seal. Parties should thus limit the scope of their requests to seal only those documents and information that are truly confidential.

If you have questions or would like further information, please contact Justin Fortescue (215.864.6823; fortescuej@whiteandwilliams.com) or Marianne Bradley (215.864.7094; bradleyem@whiteandwilliams.com).

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