CASE SUMMARY:

Jones v. Halliburton Co.

No. 08-20380, 2009 U.S. App. LEXIS 20543 (5th Cir. Sept. 15, 2009)

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Brief Summary:

Plaintiff was allegedly sexually assaulted in company-assigned housing and brought suit against her employer. Defendant company moved to compel arbitration. The district court held that the four claims related to the sexual assault were beyond the scope of the arbitration provision in Plaintiff's employment contract. After Defendant's interlocutory appeal, the Fifth Circuit Court of Appeals affirmed the district court's holding. The language of the arbitration provision required binding arbitration for all claims against the employer that were "related to" employment. The Fifth Circuit interpreted this broad provision as requiring arbitration for claims with a significant relationship to the employment contract. After a detailed factual analysis, the Fifth Circuit found that the claims did not "relate to" Plaintiff's employment and were therefore outside the scope of the arbitration agreement.

Rule:

For a claim to be subject to a broad arbitration provision in an employment contract, the underlying dispute must have a significant relationship to the contract. The analysis required under this standard is highly fact-specific.

Facts of the Case:

Jamie Leigh Jones (Jones) signed an employment contract with a foreign subsidiary of Halliburton/Kellogg Brown & Root (Halliburton) for a clerical position in Baghdad. The contract incorporated the terms of the Halliburton Dispute Resolution Program (DRP) and contained the following language: "you understand that… any and all claims that you might have against Employer *related to your employment.*.. must be submitted to binding arbitration instead of the court system." Jones was also provided with housing through the terms of the employment contract. Although she requested all-female housing, she was placed in a barracks with mostly male employees. Halliburton ignored Jones' complaints that she was being sexually harassed while living in the barracks. Jones alleged that after a social gathering near the barracks, Halliburton employees drugged, beat and gang-raped her in her bedroom.

Jones brought suit for a number of claims against Halliburton. Halliburton moved to compel arbitration of the claims based on Jones' employment contract. The district court compelled arbitration for all of the claims except the following: 1) assault and battery; 2) intentional infliction of emotional distress arising out of the alleged assault; 3) negligent hiring, retention, and supervision of employees involved in the alleged assault; and 4) false imprisonment. The district court held that the arbitration agreement was valid but that these four claims were beyond its scope. In response, Halliburton filed an interlocutory appeal.

The Court's Holding:

The Fifth Circuit Court of Appeals holds that the four claims related to Jones' sexual assault are beyond the scope of the arbitration provision in her employment agreement and therefore she cannot be compelled to arbitrate them. While recognizing the strong federal policy in favor of arbitration, the court also stresses that the policy has limits. Similarly, while

acknowledging the broad and far-reaching nature of the arbitration provision's "related to" language, the court points out that its scope is not boundless. For a claim to fall within a broad arbitration provision, the court interprets the "related to" language to require a "significant relationship" between the underlying dispute and the relevant contract. In applying the standard, the court emphasizes that the analysis is highly fact-specific. It also makes a point of stating that its holding does not mean that sexual assault claims can never "relate to" a person's employment.

After establishing the "related to" standard, the court discusses the divided case law on whether sexual assault claims fall within the scope of a broad arbitration provision. The court describes a Mississippi case where an employee was raped by her manager at work.[1] The Mississippi Supreme Court found no connection between the assault and the employment and therefore held that the related claims were beyond the scope of the arbitration provision.[2] After listing cases with similar facts patterns and outcomes, the court concludes that "in most circumstances, a sexual assault is independent of an employment relationship."[3]

The court then describes cases where courts reached the opposite conclusion. The court distinguishes one case because the sexual assault occurred during a work conference,[4] whereas Jones was assaulted when she was off-duty and in the privacy of her own bedroom. In *Barker v. Halliburton Co.*, a case involving the same arbitration provision and a similar set of facts, a Texas district court found a connection between the assault and the employment by focusing on the employees' failure to comply with company policy and the company's lack of effective

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[1] Smith ex rel. Smith v. Captain D's LLC, 963 So. 2d 1116, 1118 (Miss. 2007).

[2] *Id.* at 1121.

[3] Jones v. Halliburton Co., No. 08-20380, 2009 U.S. App. LEXIS 20543, at *19 (5th Cir. Sept. 15, 2009).

[4] Forbes v. A.G. Edwards & Sons, Inc., No. 08-CV-552, 2009 U.S. Dist. LEXIS 12894, at *8 (S.D.N.Y. Feb. 18, 2009).

personnel-related policies.[5] The Fifth Circuit disagrees with *Barker*, finding that the employees' conduct and company practices were entirely distinct from the relationship between Jones and her own employment. Ultimately, the court finds the first set of cases to be more comparable to Jones' situation and holds that her claims are beyond the scope of the arbitration clause.

Halliburton makes numerous arguments about why Jones' sexual assault is "related to" her employment. One of them hinges on the fact that Jones collected worker's compensation for her injuries. In order to qualify for worker's compensation, Jones had to acknowledge that her injuries took place during her employment. Halliburton contends that if the assault was in the "scope of her employment" under the worker's compensation standard, it must necessarily be "related to" her employment for purposes of the arbitration provision. The court rejects this contention on the basis that the two standards are distinct. According to the court, the standard for workers compensation is much lower than the "related to" test and only requires that the "conditions of employment created the zone of special danger out of which the injury arose."[6]

Halliburton also argues that since the incident happened in employee housing, it was "related to" Jones' employment. However, Defendant only cites worker's compensation cases in support of this contention. As the court previously notes, these cases are determined by a different standard. The court goes further and declares that even in worker's compensation cases, simply living in employee housing does not mean that all injuries that take place there would be within the scope of employment. For these cases, the court describes a separate standard under which the employee would have to 1) be continuously on call or 2) the source of

[5] Baker v. Halliburton Co., 541 F. Supp 2d 879 (S.D. Tex. 2008).

[6] Jones v. Halliburton Co. No. 08-20380, 2009 U.S. App. LEXIS 20543, at *25 (citing O'Leary v. Brown-Pacific-Maxon, Inc., 71 S.Ct. 470, 472 (1951).

the injury would have to be a "risk distinctly associated" with the employee's living conditions.[7] Since Jones was not on call and Halliburton would never admit that sexual assault was a distinct risk in its employee housing, this standard would not have been met.

Halliburton's final argument is that the DRP, which is incorporated into Jones' contract, creates a broader standard that would cover Jones' assault. The DRP considers "any personal injury allegedly incurred in or about the workplace" to be an arbitrable claim. The court does not consider Jones' bedroom to be part of the "workplace" and therefore rejects this interpretation. It also points out that the employees were drinking at the social gathering that led up to the assault and drinking was only allowed in "non-work spaces" according to company policy.

[7] 2 ARTHUR LARSON & LEX. K. LARSON, LARSON'S WORKER'S COMPENSATION LAW, § 24.01, 24-02 (2009).