

NON-SIGNATORY CAN COMPEL ARBITRATION AGAINST SIGNATORY BASED ON CLAUSE IN ONE OF TWO RELATED CONTRACTS

November 20, 2012 | Law Alerts

Sun Valley Ranch v. Robson, et. al
Ct. Appeals, Division One, November 20, 2012

Authored by the [JSH Appellate Team](#)

In February of 2000, the parties signed a partnership agreement establishing the Sun Valley Ranch Limited Partnership ("SVP"), naming five partners, including several entities controlled by Steve Robson. That agreement contained an arbitration clause requiring the parties to arbitrate "any" dispute "arising under or related to" the partnership agreement. The partnership then entered into a construction contract formed for the purpose of constructing the Apartment Complex. The construction contract did not contain an arbitration clause. Upon completion and sale of the apartments, a dispute arose between SVP and the Robson entities over the remaining money in escrow. SVP sued in Maricopa County Superior Court, and the Robson Entities sought to compel arbitration. SVP made three arguments as to why the arbitration clause should not be enforced: (1) the partnership agreement's arbitration clause did not apply to disputes arising from the construction contract; (2) suits grounded in common law and remedies grounded in statutes were issues for a court, not arbitration; and (3) Robson, a non-signatory to the contract, could not enforce the arbitration clause.

The court of appeals held the arbitration clause enforceable. The arbitration clause in the partnership agreement could apply to the construction contract as long as its language was sufficiently broad to encompass claims related to a separate agreement. If the language is sufficiently broad, courts consider four factors: (1) whether the agreements incorporate or reference each other; (2) whether the agreements are dependent on each other or relate to the same subject matter; (3) whether the arbitration clause specifically excludes certain claims; and (4) whether the agreements are executed closely in time and by the same parties. Here, the language "arising under or related to" in the partnership agreement's arbitration clause was very broad, and could encompass claims stemming from the construction contract. Further, because the sole purpose of the partnership agreement was the construction of the Apartments, and the construction contract was executed on the same day as the partnership agreement, the arbitration clause applied to both agreements.

Second, claims arising from common law or created by statute (i.e., based on legal rights and remedies not found in the contract) can be arbitrated if resolving those claims would require some reference to the contract. Arizona law confers broad power on arbitrators, authorizing them to order remedies typically reserved to courts, as long as those orders relate to the underlying contract.

Finally, even though Robson was not actually a signatory to the partnership agreement, he could enforce the contract's arbitration clause. A nonsignatory may demand arbitration to the same extent as a signatory, as long as the claims the signatory make refer to or presume the existence of the written agreement. SVP's claims against Robson in his individual capacity were subject to arbitration because they were directly related to the written agreement.