
ARBITRATION - MONTANA

Lenz v. FSC Securities Corporation

Supreme Court of Montana - April 3, 2018 - 414 P.3d 1262 - 2018 MT 67

Investors brought action against investment advisor and advisor's registered representative, alleging that at representative's recommendation, investors had purchased securities in technology company through advisor, that company failed, causing investors to sustain substantial losses, that advisor failed to adequately supervise representative, and that representative wrongfully induced investors to invest in company on various grounds, including misrepresentation, fraud, and undisclosed self-dealing.

The District Cour found that each investor had received actual notice of arbitration agreement contained in advisor's customer agreement form and granted advisor's and representative's motion to compel arbitration. Investors appealed.

The Supreme Court of Montana held that:

- Investors knowingly, voluntarily, and intelligently assented to arbitration agreements, and thus validly waived their rights to legal redress and jury trial under Montana Constitution, and
- Arbitration agreements were not unreasonably favorable to advisor and representative or unduly oppressive to investors, and thus agreements were not unconscionable.

Investors, who entered into customer agreements with investment advisor, knowingly, voluntarily, and intelligently assented to included arbitration agreements, and thus validly waived their rights to legal redress and jury trial under Montana Constitution, where investors were all highly educated, experienced, knowledgeable, and sophisticated, substantial evidence indicated that investors received, were aware of, and understood arbitration agreements, and although investors alleged that some or all of them did not receive customer agreements, signature page clearly, conspicuously, and unambiguously stated and notified signatory that, by signing, signatory acknowledged receipt of copy of customer agreement.

Securities broker's standard-form arbitration agreements were not unreasonably favorable to broker or unduly oppressive to clients, and thus agreements were not unconscionable, where standard-form arbitration agreements were common, if not pervasive, in securities brokerage contracts, clients were all highly sophisticated and experienced market investors, well aware and accustomed to terms and consequences of standard-form arbitration agreements, no fiduciary or other special relationship of trust and reliance existed between broker and clients, and standard-form agreements were subject to regulatory oversight and approval by Securities and Exchange Commission and Financial Industry Regulatory Authority.