Supreme Court Holds That International Unions Are Not Accountable For Inducing Locals To Violate Collective Bargaining Agreements

Insights
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In the final labor and employment law decision for the 2009-10 term, on June 24, 2010, the Supreme Court held that a unionized employer may not pursue an action against an international union for inciting a local union to violate the terms of a collective bargaining agreement. The Supreme Court also held that it was a court's job (rather than an arbitrator's job) to determine whether a collective bargaining agreement with an arbitration clause was actually entered into. *Granite Rock Company v. International Brotherhood of Teamsters.*

Background
Occasionally, a local union and its international counterpart may be at odds as to whether a proposed labor contract should be ratified and whether the local union should comply with the terms of a ratified contract. Prior to today, the Supreme Court had not addressed what remedy (if any) was available to an employer when an international union allegedly induces a local union to violate the terms of a labor agreement.

In both the traditional labor and commercial contract contexts, there are often disputes as to whether a contract, which contains an arbitration clause, was actually agreed to by the parties. Today, the Supreme Court explained that it was the court's job (rather than the arbitrator's job) to decide the initial question of whether a contract with an arbitration clause was actually entered into.

Facts Of The Case
Granite Rock and a local Teamsters union began negotiating the terms of a new collective bargaining agreement to replace an existing agreement. After the old agreement expired, but before a new agreement was entered into, the local went on strike. Subsequent to the strike, Granite Rock argued that it had entered into a new contract, which had been ratified by the union members, and which contained a no-strike clause.

But, according to the company, the international union instructed the local's members to continue with their strike until the employer agreed to a return-to-work agreement that shielded the international union, the local union and the local's members from any liability for striking. Based on the international union's instructions, the local union continued with its strike in spite of the new labor agreement's no-strike clause.

Granite Rock then sued both the local union (for violating the collective bargaining agreement) and the international union, for interfering with its agreement with the local. The local union denied that the collective bargaining agreement was actually entered into, then asked the court to defer the entire dispute to arbitration based on the arbitration provision in the collective bargaining agreement. The international union argued that it could not be held liable for inducing a collective bargaining agreement breach.

With respect to the arbitration issue, the U.S. Court of Appeals for the 9th Circuit ruled that the local union had the right to compel arbitration even though it denied that the parties entered into a collective bargaining agreement. The 9th Circuit ruled that, so long as neither party was challenging the validity of the contact's arbitration provision, it was the arbitrator's (rather than the court's) job to decide the threshold issue of whether the parties actually entered into a contract. Among other things, the 9th Circuit pointed out that it would be unfair for the employer to seek to enforce the contract and, at the same time, ignore its arbitration provision.

Finally, the 9th Circuit also ruled that Granite Rock could not pursue an intentional interference claim against the international union because, under the Labor Management Relations Act, an employer may only sue the international union if the collective bargaining agreement at issue *created* the rights and liabilities at issue in the lawsuit. The 9th Circuit ruled that, regardless of the propriety of the international union's actions, the labor agreement between the employer and the local did not create any rights or obligations for the international union.

Supreme Court's Decision

In reversing the 9th Circuit's decision with respect to the arbitration issue, the Supreme Court reasoned that it was a court's (rather than an arbitrator's) job to decide whether the parties entered into the applicable collective bargaining agreement. The court pointed out that, although federal policy favors arbitration, courts cannot ignore the basic principal that arbitration is strictly a matter of consent. As such, allowing an arbitrator to decide the foundational issue of whether the underlying contract was even entered into would directly contradict this basic consent principal.

Put differently, the Supreme Court made clear that the federal policy favoring arbitration cannot override "the principal that a court may submit to arbitration only those disputes . . . that the parties have agreed to submit." Although it was not necessary to the Supreme Court's decision, the court also held that the dispute regarding the formation of the collective bargaining agreement fell outside the scope of the arbitration provision itself.

In affirming the 9th Circuit's decision with respect to Granite Rock's claims against the international union, the Supreme Court reasoned that creating a new federal common law cause of action against international unions would upset the careful policy choices made by Congress *vis a vis* employer and union relations. The Supreme Court also disagreed with Granite Rock's suggestion that the Supreme Court's decision would leave it without a remedy against the international union. Among other things, the Supreme Court noted that Granite Rock might be able to pursue state law remedies,

administrative claims before the National Labor Relations Board (NLRB) and arguments that the international union acted as the agent or alter ego of the local union.

Conclusion

With respect to international unions inciting their local unions to violate labor agreements, an employer's remedy will now likely be limited to filing an unfair labor practice charge with the NLRB. Given the current composition of the board employers are much less likely to get a receptive hearing before the NLRB than they would if the matter was in federal court.

With respect to contracts with arbitration provisions, parties will not face the possibility of being forced into arbitration prior to being able to challenge the existence of the underlying contract itself. Perhaps more importantly, parties will not have to face the uphill battle of persuading an arbitrator, who may have an inherent interest in preserving their own jurisdiction, that no contract exists.

This Legal Alert provides information about a specific Supreme Court decision. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.