STATE OF MICHIGAN

COURT OF APPEALS

PJETER STANAJ and GJYSTE STANAJ,

Plaintiffs-Appellants,

v

HUGH BROTHERTON and CAROL BROTHERTON,

Defendants-Appellees.

UNPUBLISHED
February 10, 1998

No. 195219
Oakland Circuit Court
LC No. 94-DA6139 AV

Before: Markey, P.J., and Doctoroff and Smolenski, JJ.

MEMORANDUM.

By leave granted, plaintiffs appeal a decision of the Oakland Circuit Court, reversing the district court and awarding defendants mediation sanctions pursuant to MCR 2.403(O), based on an arbitration decision which resolved the underlying controversy in favor of defendants. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This litigation was initially begun in Oakland Circuit Court and mediated pursuant to MCR 2.403. Plaintiffs rejected the mediation award of $8,500, so the circuit court remanded the matter to district court for trial. In district court, the parties stipulated to submit the principal dispute to arbitration, with a further proviso that each party would retain its right to pursue mediation sanctions depending on the outcome of the arbitration proceedings. The arbitrators found for defendants, who then returned to district court with a motion for mediation sanctions. The district court initially awarded such sanctions but tergiversated when plaintiffs brought to its attention this Court's decision in *St George Greek Orthodox Church of Southgate v Laupmanis Associates, PC*, 204 Mich App 278, 283-285; 514 NW2d 516 (1994), where this Court held that mediation sanctions under MCR 2.403 do not apply when a case is resolved through arbitration. The circuit court, however, distinguished *Laupmanis* from the instant case on the basis that, in that case, the parties had not stipulated to retaining the right to pursue mediation sanctions as did the parties here.

Pursuant to MCL 600.5001; MSA 27A.5001, parties to any dispute may agree to submit all or any part of their dispute to arbitration, and thereafter have the arbitrator's award enforced by the circuit

court. Pursuant to the statute, even parties to litigation may submit their case to arbitration or to a specified court for final decision, even though such agreement effectively ousts the jurisdiction of a superior court. *Wyrzykowski v Budds*, 325 Mich 199, 202; 38 NW2d 313 (1949). The only limitation is that the parties may not, by agreement, alter established judicial norms of procedure or standards of review. *Brucker v McKinlay Transport, Inc*, 454 Mich 8, 17-18; 557 NW2d 536 (1997).

Here, the parties simply agreed that, although their controversy would in the first instance be resolved by arbitration, the arbitral award would be treated as though it were an adjudication by a court of competent jurisdiction, and mediation sanctions, if any, awarded accordingly. Although the mediation rule would not, by its terms, apply in the absence of such stipulation, the parties were free to agree to extend its application. See, e.g., *Dittus v Geyman*, 68 Mich App 433, 436, 439; 242 NW2d 800 (1976); *Taylor v Klahm*, 40 Mich App 255, 266; 198 NW2d 715 (1972). The circuit court therefore correctly held that defendants are entitled to mediation sanctions.

Affirmed.

/s/ Jane E. Markey
/s/ Martin M. Doctoroff
/s/ Michael R. Smolenski