



COURT OF CHANCERY  
OF THE  
STATE OF DELAWARE

JOHN W. NOBLE  
VICE CHANCELLOR

417 SOUTH STATE STREET  
DOVER, DELAWARE 19901  
TELEPHONE: (302) 739-4397  
FACSIMILE: (302) 739-6179

May 30, 2007

*Via LexisNexis File & Serve*

Louis J. Rizzo, Jr., Esquire  
Reger Rizzo Kavulich & Darnall LLP  
1001 Jefferson Street, Suite 202  
Wilmington, DE 19801

*Via LexisNexis File & Serve  
and First Class Mail*

Mr. Nicholas Hoffman  
152 E. Pomona Street  
Philadelphia, PA 19144-1931

Re: St. Paul Travelers Property Casualty Corporation v. Hoffman  
C.A. No. 1341-VCN  
Date Submitted: March 6, 2007

Dear Mr. Hoffman and Mr. Rizzo:

Plaintiff St. Paul Travelers Property Casualty Corporation (“Travelers”) seeks confirmation of an underinsured motorist arbitration award to Defendant Nicholas Hoffman (“Hoffman”). Travelers has moved for summary judgment.

Hoffman was injured in a motor vehicle accident in 1997. At the time, Hoffman’s vehicle insurance was provided by Travelers; it contained a typical Delaware underinsured motorist provision. Recovery from the party responsible for the accident did not fully compensate Hoffman for his injuries. Thus, he turned

to Travelers in accordance with its underinsured motor coverage. Disputes between the insured and the insurer relating to that coverage are resolved through arbitration.

An arbitration panel was convened. Following a hearing, at which Hoffman was represented by counsel, it concluded that Hoffman had suffered damages in the total amount of \$40,000. After setting off the amount received on behalf of the person who caused the accident, the arbitrators awarded Hoffman a net of \$25,000 (the “Award”) from Travelers.<sup>1</sup> Travelers tendered payment, but its check was returned. Hoffman never sought to vacate the Award. Travelers brought this action to confirm the Award.

As the party seeking summary judgment, Travelers must demonstrate that there are no material facts in dispute and that it is entitled to judgment as a matter of law.<sup>2</sup> Once the moving party has created a factual basis to support its right as a matter of law—for example, by deposition, affidavit, or responses to requests for admissions—it becomes the responsibility of the non-moving party, by similarly competent evidence, to demonstrate a dispute as to material fact.<sup>3</sup>

---

<sup>1</sup> The Award, dated December 3, 2004, appears as Exhibit A to the Complaint.

<sup>2</sup> Ct. Ch. R. 56(c).

<sup>3</sup> *LaPoint v. AmerisourceBergen Corp.*, 2007 WL 1309398, at \*4 (Del. Ch. May 1, 2007).

The record in this matter is one-sided. Travelers served requests for admissions in accordance with Court of Chancery Rule 36; Hoffman never replied; therefore, they are deemed admitted.<sup>4</sup>

This Court's jurisdiction to confirm arbitration awards typically is found, as here, in the Uniform Arbitration Act, and 10 *Del. C.* § 5702 in particular. An arbitration award will regularly be confirmed unless one of the limited statutory grounds for setting aside an award is present.<sup>5</sup> Hoffman has pointed to none of the recognized statutory grounds. Instead, he claims that the Award did not fairly compensate him for his injuries. He simply disagrees with the arbitrators' decision. Hoffman may be right that the Award does not adequately compensate him. The Court, however, does not know that, and, for purposes of this proceeding, it does not matter. It is not for the Court to substitute its judgment—even if it had a fully developed factual record (which it does not)—for that of the arbitrators.<sup>6</sup>

---

<sup>4</sup> See, e.g., *Burns v. Marinis*, 2006 WL 651352, at \*2 (Del. Ch. Mar. 1, 2006).

<sup>5</sup> See 10 *Del. C.* § 5714(a) (prescribing grounds for vacating an award, such as, fraud, arbitrators' exceeding their powers, fraud in procuring award, partiality, and invalid arbitration agreement). See also *Daisy Constr. Co. v. Mumford & Miller Concrete, Inc.*, 2005 WL 1653943, at \*3-\*4 (Del. Ch. June 30, 2005).

<sup>6</sup> See, e.g., *Appoquinimink Educ. Ass'n v. Appoquinimink Sch. Dist.*, 2003 WL 1794963, at \*5 n.40 (Del. Ch. Mar. 31, 2003), *aff'd*, 844 A.2d 991 (Del. 2004) (TABLE).

May 30, 2007  
Page 4

Accordingly, Travelers has demonstrated that, as a matter of undisputed fact, a proper arbitration hearing duly resulted in the Award; no grounds—either as a matter of fact or a matter of law—have been offered to support any basis for questioning the Award.

Therefore, Travelers' Motion for Summary Judgment is granted. The Award is confirmed.<sup>7</sup> Costs are awarded to Travelers.

**IT IS SO ORDERED.**<sup>8</sup>

Very truly yours,

*/s/ John W. Noble*

JWN/cap

cc: Register in Chancery-K

---

<sup>7</sup> See 10 *Del. C.* § 5713. Travelers has not relied upon the time limits specified in 10 *Del. C.* § 5714(b).

<sup>8</sup> This order may be implemented in accordance with 10 *Del. C.* § 5718.