

LEGAL ISSUES

1. Whether a South Dakota general choice-of-law provision in a contract will preempt the Federal Arbitration Act when the contract at issue affects interstate commerce?

The trial court held in the affirmative.

Mastrobuono v. Shearson Lehman Hutton, Inc., 514 U.S. 52 (1995)

Smith Barney, Inc. v. Critical Health Sys., 212 F.3d 858 (4th Cir. 2000)

Chiron Corp. v. Ortho Diagnostic Sys. Inc., 207 F.3d 1126 (9th Cir. 2000)

National Union Fire Ins. Co. v. Belco Petroleum Corp., 88 F.3d 129 (2d Cir. 1996)

2. Whether there was evident partiality in the arbitration panel when the Panel did not disclose to the parties that, prior to the arbitration, one of the arbitrator's law firms had a relationship with a key adverse witness to DT-Trak, and Prue's co-conspirator, in a lawsuit involving the same facts and parties as the arbitration?

The trial court held in the negative.

Commonwealth Coatings Corp. v. Continental Cas. Co., 393 U.S. 145 (1968)

Schmitz v. Zilveti, 20 F.3d 1043 (9th Cir. 1994)

Olson v. Merrill, Lynch, Pierce, Fenner & Smith, Inc., 51 F.3d 157 (8th Cir. 1995)

Green V. Montgomery County, Alabama, 784 F.Supp. 841, 845 (M.D.Ala. 1992)

9 U.S.C. § 10(a)(2)

SDCL Rules of Professional Conduct, Appendix, Ch. 16-18 Rule 1.10(a)

SDCL § 19-13-3

SDCL Rules of Professional Conduct, Appendix, Ch. 16-18 Rule 1.18

3. Whether the arbitration panel provided an award that confirmed to

the requirements of the parties' arbitration agreement when the arbitration agreement required the panel to provide findings of fact and conclusions of law regarding its decision, but the panel failed to make any findings on any disputed issue of material fact?

The trial court held in the affirmative.

Vold v. Broin & Associates, Inc., 2005 SD 80, 699 N.W.2d 482

New Elliott Corp. v. Man Gutehoffnungshutte AG, 969 F.Supp. 13 (S.D.N.Y. 1997)

9 U.S.C. § 10(a)(4)