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SLIP OPINION NO. 2026-OHIO-4192

O'MALLEY, ADMINISTRATIVE JUDGE, APPELLANT, v. LABORERS'

INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 860, APPELLEE.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *O'Malley v. Laborers' Internatl. Union of N. Am., Local 860*, Slip Opinion No. 2026-Ohio-4192.]

Contracts—Collective-bargaining agreements—Arbitration—The parties' disputes concerning interpretation and application of two collective-bargaining agreements are arbitrable—Court of appeals' judgment affirmed.

(No. 2024-1369—Submitted October 7, 2025—Decided October 27, 2026.)

APPEAL from the Court of Appeals for Cuyahoga County,
No. 112989, 2024-Ohio-3103.

FISCHER, J., authored the opinion of the court, which KENNEDY, C.J., and DEWINE, BRUNNER, DETERS, HAWKINS, and SHANAHAN, JJ., joined.

FISCHER, J.

{¶ 1} We accepted this discretionary appeal to determine whether appellant, Administrative Judge Thomas F. O'Malley of the Cuyahoga County Court of Common Pleas, Juvenile Division (“the juvenile court”), and appellee, Laborers’ International Union of North America, Local Union No. 860 (“Local 860”), must arbitrate disputes concerning the interpretation and application of two collective-bargaining agreements. We hold that the disputes are arbitrable, and we thus affirm the judgment of the Eighth District Court of Appeals.

I. BACKGROUND

A. The juvenile court entered into collective-bargaining agreements with Local 860 on behalf of two sets of employees

{¶ 2} The juvenile court entered into collective-bargaining agreements with Local 860 on behalf of two different sets of employees: employees who worked at the Cuyahoga County Juvenile Detention Center and employees who worked for the juvenile court in other capacities. The two collective-bargaining agreements were generally the same; both included a duration clause, an evergreen clause, and an arbitration clause.

{¶ 3} The duration clauses stated that the collective-bargaining agreements “shall remain in full force and effect until December 31, 2019.” However, the evergreen clauses, which were included within the preamble to the agreements, stated:

The Court and the Union recognize that nothing in this Agreement supersedes or interferes with rights and authorities granted to the Court pursuant to Ohio Revised Code (ORC) Chapters 2151 et seq. and 2153 et seq. Nothing in this Agreement abrogates the Court’s rights pursuant to ORC Chapter 4117 et seq. Notwithstanding, the Court agrees to recognize the Union and abide by the terms of this

Agreement until such time as a successor agreement is negotiated between the parties, the Union disclaims interest, or the employees elect to decertify the Union as their exclusive bargaining representative upon the expiration of this Agreement.

{¶ 4} And the arbitration clauses required the parties to arbitrate any grievance that they were unable to resolve under the procedure set out in the collective-bargaining agreements. A grievance was defined as “a dispute between the Court and Union . . . as to the interpretation or application of, or compliance with, an express provision of [the] Agreement.” Under the collective-bargaining agreements, an arbitrator’s authority was “limited to interpretation and application of the Agreement” and did not include authority to “add to or subtract from, or modify in any manner the provisions of [the] Agreement,” “pass upon issues governed by law,” or “make an award in conflict with the law.”

B. The juvenile court sued, seeking declaratory judgments stating that the collective-bargaining agreements expired or were void ab initio

{¶ 5} When negotiations for successive collective-bargaining agreements failed, the juvenile court filed two actions for declaratory judgments in the Cuyahoga County Court of Common Pleas, case Nos. CV-20-940701 and CV-20-940702, seeking declaratory judgments stating that the collective-bargaining agreements expired on December 31, 2019, under the duration clauses or were void ab initio for lack of consideration and in violation of public policy as a result of the evergreen clauses. The juvenile court also informed all bargaining members of Local 860 that it was pursuing legal action, there was no longer an agreement between the juvenile court and Local 860, and the collective-bargaining agreements no longer applied to those employees.

{¶ 6} Local 860 emailed a grievance to the juvenile court, asserting that the juvenile court had failed to comply with the collective-bargaining agreements. The

court administrator for the juvenile court responded that the juvenile court was “no longer processing grievances.”

{¶ 7} In response, Local 860 filed answers and counterclaims for breach of contract and declaratory judgment and moved to compel arbitration. Local 860 argued that the juvenile court had obligations to maintain the terms and conditions of the collective-bargaining agreements until one of the three conditions precedent under the evergreen clauses were met and that the juvenile court breached the collective-bargaining agreements by unilaterally terminating those obligations when it declared that there was no longer an agreement and that it would no longer recognize Local 860. Local 860 asserted that it had tried to address its concerns through the grievance process but that because the juvenile court had refused to participate, arbitration was necessary under the collective-bargaining agreements.

{¶ 8} The parties filed cross-motions for summary judgment. The trial court held that the collective-bargaining agreements were valid contracts that were not void ab initio for failure of consideration. The trial court determined that the collective-bargaining agreements “expired on December 31, 2019, but [were] extended by the parties until such time as” one of the three conditions contained in the evergreen clauses was met and that the extension could not last beyond December 31, 2020, pursuant to public policy under R.C. Ch. 4117. Thus, the trial court concluded, the juvenile court had the right to withdraw recognition of the contract on January 1, 2021. However, the trial court also determined that Local 860 was entitled to a declaration that the juvenile court breached the contracts when it rescinded its recognition of Local 860 but only for the time between the rescission and when the contract was permitted to end (December 31, 2020). The trial court further found that Local 860’s remaining counterclaims were not amenable to review on summary judgment and were better addressed at trial. The trial court elected not to address the arbitrability of the collective-bargaining agreements.

{¶ 9} The parties then submitted joint stipulations of fact and agreed that two issues remained:

1. Does Local 860's December 4, 2020 e-mail to Court Administrator Tess Neff constitute a grievance under the [collective-bargaining agreements] and, if so, is it substantively arbitrable or moot given the [Trial] Court's ruling on summary judgment in the [Trial] Court's Judgment/Journal Entry of November 21, 2022? (Plaintiff reserves all procedural objections if this matter proceeds to an arbitration before an arbitrator.)

2. What is the remedy for the Juvenile Court's breach of contract identified in the [Trial] Court's ruling on summary judgment in the [Trial] Court's Judgment/Journal Entry of November 21, 2022?

The parties filed cross-motions for summary judgment on these remaining issues.

{¶ 10} In its ruling on the summary-judgment motions, the trial court found that Local 860's email was not a grievance under the collective-bargaining agreements, because considering the email as a grievance would violate public policy. The trial court therefore granted summary judgment in favor of the juvenile court on that issue. However, the trial court also found that Local 860 was entitled to damages in the amount of the union dues it would have received in the month of December 2020 if the juvenile court had not withdrawn recognition of Local 860. The trial court therefore granted summary judgment to Local 860 on its counterclaim.

C. The parties cross-appealed to the Eighth District

{¶ 11} Both parties appealed to the Eighth District, challenging the trial court's rulings on the parties' cross-motions for summary judgment.

{¶ 12} The Eighth District held that the trial court should have granted Local 860’s motion to arbitrate because the parties’ disputes centered on the interpretation of the evergreen and duration clauses and the collective-bargaining agreements assigned interpretation of the terms of the agreements to the arbitrator. 2024-Ohio-3103, ¶ 33 (8th Dist.). The Eighth District also found that the question whether the collective-bargaining agreements expired on their own terms was subject to arbitration. *Id.* at ¶ 34-35. But even if the collective-bargaining agreements had expired, the Eighth District further concluded, the duty to arbitrate had “post-expiration effect.” *Id.* at ¶ 36. Accordingly, the Eighth District reversed the trial court’s judgment and remanded the cause to that court for it to order the parties to arbitration. *Id.* at ¶ 37-38.

D. We accepted jurisdiction over the juvenile court’s discretionary appeal

{¶ 13} The juvenile court appealed to this court, raising two propositions of law:

[1.] The existence of a valid contract is an issue of substantive arbitrability that must be decided by a court, not by an arbitrator.

[2.] A court, as employer, cannot be perpetually bound to the terms of a collective bargaining agreement because it would destroy the court’s ability to exercise its judicial discretion and such an agreement is void *ab initio*.

We accepted jurisdiction over the appeal. *See* 2024-Ohio-5529.

II. ANALYSIS

{¶ 14} The parties dispute whether the expiration of the collective-bargaining agreements and the application of the evergreen clauses are arbitrable

issues. The juvenile court argues that the collective-bargaining agreements expired in 2019 and that any dispute arising thereafter would therefore not be subject to binding arbitration. The juvenile court also argues that even if the collective-bargaining agreements had not expired and the evergreen clauses had extended the agreements' terms under the three conditions listed in those clauses, such an extension would be contrary to public policy and would render the collective-bargaining agreements void ab initio. The juvenile court asserts that a court, not an arbitrator, must decide whether the collective-bargaining agreements are void.

{¶ 15} Local 860 argues that the collective-bargaining agreements expired only upon the fulfillment of one of the three conditions listed in the evergreen clauses. Local 860 maintains that these conditions do not guarantee that the collective-bargaining agreements will operate in perpetuity and that the conditions thus do not violate public policy. Local 860 contends that the arbitrator can resolve the disputes over the expiration date of the collective-bargaining agreement and the applicability of the evergreen clauses because the issues concern contract interpretation—issues that fall within the scope of the arbitration provisions in the collective-bargaining agreements.

{¶ 16} For the reasons set forth below, we agree with Local 860 that the expiration of the collective-bargaining agreements and the application of the evergreen clauses are issues of contract interpretation that can be arbitrated under the collective-bargaining agreements. We hold that the mutual agreement to arbitrate is sufficient consideration between the parties to enforce the arbitration clauses even while the juvenile court challenges the formation of the collective-bargaining agreements as a whole.

A. Standard of review

{¶ 17} This case comes to us on appeal from the court of appeals' ruling on the parties' cross-motions for summary judgment. For a party to prevail when moving for summary judgment, "there must be no genuine issue of material fact,

the moving party must be entitled to judgment as a matter of law, and it must appear from the evidence, when viewing the evidence in favor of the nonmoving party, that reasonable minds can come only to a conclusion adverse to the nonmoving party.” *A.J.R. v. Lute*, 2020-Ohio-5168, ¶ 15, citing *Davis v. Loopco Industries, Inc.*, 1993-Ohio-195, ¶ 6. We review de novo a trial court’s decision granting or denying a motion for summary judgment. *Id.*

B. Arbitrability of the collective-bargaining agreements

{¶ 18} The General Assembly and Ohio courts “have expressed a strong public policy favoring arbitration.” *Hayes v. Oakridge Home*, 2009-Ohio-2054, ¶ 15, citing R.C. Ch. 2711; *U.S. Acute Care Solutions, L.L.C. v. Doctors Co. Risk Retention Group Ins. Co.*, 2025-Ohio-5010, ¶ 11. And in light of this public policy, “all doubts should be resolved in . . . favor” of arbitration. *Hayes* at ¶ 15, citing *Ignazio v. Clear Channel Broadcasting, Inc.*, 2007-Ohio-1947, ¶ 18.

{¶ 19} Because the statutory language of the Ohio Arbitration Act, R.C. 2711.01 et seq., tracks that of the Federal Arbitration Act, 9 U.S.C. 1 et seq., we have utilized federal caselaw to aid us when interpreting the state statute. *See, e.g., Taylor v. Ernst & Young, L.L.P.*, 2011-Ohio-5262, ¶ 18; *U.S. Acute Care Solutions* at ¶ 15; *ABM Farms, Inc. v. Woods*, 1998-Ohio-612, ¶ 9-11.

{¶ 20} The Ohio Arbitration Act provides that an arbitration clause in “any written contract” is “valid, irrevocable, and enforceable, except upon grounds that exist at law or in equity for the revocation of any contract.” R.C. 2711.01(A). Like the Federal Arbitration Act, the Ohio Arbitration Act affects the enforcement of arbitration agreements and their initial validity. *See Kindred Nursing Ctrs., Ltd. Partnership v. Clark*, 581 U.S. 246, 254 (2017). For a party to challenge the arbitrability of a contract under the Ohio Arbitration Act, the party must challenge the arbitration clause itself. *See ABM Farms* at 501-502. This is “[b]ecause the arbitration clause is a separate entity”—i.e., it is a contract within a contract—and so it “remains as the vehicle by which the legitimacy of the remainder of the

contract is decided.” *Id.* at 502. This is known as the severability rule. *See Buckeye Check Cashing, Inc. v. Cardegna*, 546 U.S. 440, 445-446 (2006); *Coinbase, Inc. v. Suski*, 602 U.S. 143, 150-151 (2024).

{¶ 21} The juvenile court, however, argues that the arbitration clauses cannot be enforced and the severability rule cannot apply in this case because any right to arbitrate is illusory since the arbitration clauses exist within the collective-bargaining agreements and the application of the evergreen clauses renders the agreements void ab initio for lack of consideration. The juvenile court also argues that the evergreen clauses extend the terms of the collective-bargaining agreements in perpetuity, contrary to public policy and to a court employer’s authority, as established in *State ex rel. Ohio Council 8, Am. Fedn. of State, Cty. & Mun. Emps. v. Spellacy*, 17 Ohio St.3d 112 (1985), to decide whether to exercise its judicial discretion to engage in collective bargaining with its employees. The juvenile court argues that the severability rule applies only to challenges to the validity of a contract, not to challenges to its formation. And the juvenile court maintains that a challenge to consideration in a contract is a challenge to the contract’s formation. *See Restatement of the Law 2d, Contracts*, § 17(1) (1981).

{¶ 22} The juvenile court is right that the severability rule may not always apply. Indeed, some courts have found that the severability rule does not apply when the parties challenge the existence or formation of the contract that contains the arbitration provision. *See M & M Precision Sys. Corp. v. Interactive Group, Inc.*, 2000 WL 262655, *2-3 (2d Dist. Mar. 10, 2000) (concluding that because “the very existence of the purported contracts containing the arbitration provisions” was disputed by a party, “until the existence of the contracts [was] proven,” that party could not be required to submit to arbitration); *Johnson v. Continental Fin. Co., L.L.C.*, 131 F.4th 169, 176 (4th Cir. 2025) (stating that the severability rule applies to challenges to the validity of a contract but not to challenges to its formation and

noting that “[f]ormation challenges render the whole contract unenforceable” but “[t]here is nothing to enforce if a contract never existed”).

{¶ 23} And the Supreme Court of the United States has ruled that a dispute over an arbitration clause’s formation is typically an issue to be decided by a court. *Granite Rock Co. v. Internatl. Bhd. of Teamsters*, 561 U.S. 287, 296-297 (2010). This is because “a court may order arbitration of a particular dispute only where the court is satisfied that the parties agreed to arbitrate *that dispute*.” (Emphasis in original.) *Id.* at 297.

{¶ 24} Plainly, there may be circumstances in which an arbitration clause cannot be severed from the contract, like in disputes about whether the contract was ever signed or whether the signor lacked capacity to assent, *see Buckeye Check Cashing*, 546 U.S. at 444, fn. 1, but not all issues of contract formation concerning the underlying contract will override the severability rule. For example, in *ABM Farms*, this court held that an allegation of fraudulent inducement of a contract did not affect the application of the arbitration provision within that contract: “[A] party must demonstrate that the arbitration provision itself in the contract at issue, and not merely the contract in general, was fraudulently induced.” 1998-Ohio-612 at ¶ 14. Fraudulent inducement is a challenge to contract formation. *See Buckeye Check Cashing* at 444 (a claim of fraud in the inducement challenges “the contract as a whole . . . on a ground that directly affects the entire agreement”). Therefore, we cannot state that all issues of contract formation override the severability rule and require a court to review the formation of the contract before reviewing the application of an arbitration provision within that contract.

{¶ 25} What is clear from the caselaw on these issues is that a court must determine whether a challenge to a contract’s formation is also a challenge to the formation of its arbitration clause. And here, the juvenile court’s challenge to the formation of the collective-bargaining agreements is not a challenge to the formation of the arbitration clauses.

{¶ 26} It is indisputable that the juvenile court intended to enter into collective-bargaining agreements with Local 860, as shown by the signatures on the agreements. Within each of those agreements, the parties included an arbitration clause, and no party disputes the existence of those clauses. It is well-settled that “a mutual promise to arbitrate constitutes sufficient consideration to form an enforceable arbitration provision only where it is binding on both parties,” *Trimble v. Entrata, Inc.*, 791 F.Supp.3d 615, 627 (D.Md. 2025), because “the promise of one serves as consideration for the promise of the other,” *Lake Land Emp. Group of Akron, L.L.C. v. Columer*, 2004-Ohio-786, ¶ 18; *see also, e.g., Nott v. Johnson*, 7 Ohio St. 270, 276 (1857) (a mutual, concurrent promise affords sufficient legal consideration); *Williams-Jackson v. Innovative Senior Care Home Health of Edmond, L.L.C.*, 727 Fed.Appx. 965, 969 (10th Cir. 2018) (mutually exchanged promises to arbitrate are not illusory and provide sufficient consideration for an arbitration agreement). And because the parties here entered into agreements to arbitrate various disputes, there is sufficient consideration for the arbitration clauses.

{¶ 27} The juvenile court’s assertion that a particular interpretation and application of the evergreen clauses renders the collective-bargaining agreements without consideration and void ab initio does not affect the arbitration clauses within the intended collective-bargaining agreements, nor does it undercut the sufficient consideration between the parties necessary to enforce the arbitration clauses as separate contracts. Therefore, we hold that the arbitration clauses in this case are enforceable, even when the overall consideration of the collective-bargaining agreements is being challenged.

{¶ 28} And under the collective-bargaining agreements at issue here, the parties agreed to arbitrate “a dispute between the Court and Union . . . as to the interpretation or application of, or compliance with, an express provision” of the collective-bargaining agreements. Issues of interpretation and application of the

duration and evergreen clauses in the collective-bargaining agreements, including whether to interpret the evergreen clauses as rendering the contracts void ab initio for a lack of consideration, fall squarely within the scope of the arbitration clauses. *See U.S. Acute Care Solutions*, 2025-Ohio-5010, at ¶ 12-15.

{¶ 29} As we have noted, when an arbitration provision is in a contract, that provision applies to any issues that the parties agreed to arbitrate. *See id.* A court may deny a motion to compel arbitration “only if the arbitration clause cannot reasonably be read to cover the dispute in question.” *Id.* at ¶ 15. Here, the arbitration clauses cover the disputes in question and the trial court therefore erred in failing to order the parties to proceed to arbitration. Accordingly, we affirm the Eighth District.

III. CONCLUSION

{¶ 30} The two collective-bargaining agreements at issue in this case explicitly provide that the parties are to arbitrate any interpretation and application disputes arising from the agreements. The parties dispute the date the collective-bargaining agreements ended under the duration clauses and the interpretation and application of the evergreen clauses, and those issues are arbitrable. We therefore affirm the judgment of the Eighth District Court of Appeals, and we remand the matter to the trial court to order the parties to proceed to arbitration.

Judgment affirmed.

Roetzel & Andress, L.P.A., R. Todd Hunt, and Emily K. Anglewicz; and Weston Hurd, L.L.P., and Max V. Rieker, for appellant.

Mangano Law Offices Co., L.P.A., Joseph J. Guarino III, and Austin T. Opalich, for appellee.
