

S-25-0429 *Big Iron Auction Company* (Appellee) v. *Harder Capital, LLC, and Ryan M. Harder* (Appellants)

Appeal from the District Court for Hall County, Judge Andrew C. Butler

Attorneys: Jared J. Krejci (Smith, Johnson, Allen, Connick & Hansen for Appellants), Keith A. Harvat & Justin D. Eichmann (Houghton Bradford Whitted PC LLO for Appellee), and Jeffrey C. Jarecki (Jarecki Sharp & Petersen PC LLO for Appellee)

Civil: Damages, attorney fees, and injunctions

Harder Capital, LLC and Ryan M. Harder (Appellants) were independent sales representatives for Big Iron Auction Company (Appellee). Appellants sold online auction services for Appellee in exchange for commissions. The contract between Appellants and Appellee contained a non-compete clause, which is a provision that restricts employees or contractors from working for a competitor or from starting their own business. The contract also contained a provision that if there was a legal disagreement between the parties, then they were required to arbitrate their differences. Arbitration is a non-judicial process where a neutral party (an arbitrator) hears the arguments and makes a final, binding decision on the parties. The arbitration clause included an exception for temporary or permanent injunctions, which is an order from the court that requires a party to do, or not do, something.

When Appellants began selling auction services under a different, online platform, Appellee sued Appellants. Appellee alleged that Appellants breached the noncompete clause. Appellee also asked the district court to issue a temporary injunction that would enforce the noncompete clause, which would mean that Appellant could not sell the other online auction services. Appellants asked the district court to order the parties to arbitrate. The district court entered an order requiring the parties to arbitrate, and it also issued a temporary injunction that enforced the noncompete clause on Appellants.

After arbitration, the arbitrator concluded that the noncompete clause was not valid. Because of this, Appellants asked the district court to vacate (or set aside) the temporary injunction, which it did. The arbitrator also determined that Appellee owed Appellant \$19,405.91, so Appellants also asked the district court to enter a judgment in that amount for them, which the district court also did.

Appellants also argued that the temporary injunction was wrongfully issued because the arbitrator determined that the noncompete clause was invalid. Therefore, Appellants also asked the district court to award them damages, costs, and attorney fees they incurred because of the temporary injunction. The district court denied this request because it reasoned that the arbitrator did not award damages for this. On appeal, Appellants argue that because the temporary injunction was wrongfully issued that they are entitled to damages, costs, and

attorney fees. They assert that the undisputed evidence shows that the injunction cost them \$528,340.80 in damages and \$58,763.88 in attorney fees and legal expenses. Appellants argue that damages that the arbitrator awarded them are different from the damages they suffered when the temporary injunction was wrongfully issued. Appellants point out that the arbitrator had no authority to hear claims regarding an injunction.

The parties have filed briefs with the Nebraska Supreme Court, and the case is ready to be argued. Each side will have ten minutes to argue before the Supreme Court and to answer questions from Supreme Court Justices.