**CHENAL RESTORATION CONTRACTORS, LLC, APPELLANT v. LINDA DIANE CARROLL and TRADE WYNDS IMPORTS, INC., APPELLEES**

**COURT OF APPEALS OF ARKANSAS, DIVISION FOUR**

**2011 Ark. App. 291; 2011 Ark. App. LEXIS 308**

**April 20, 2011, Opinion Delivered**

**JUDGES:** ROBIN F. WYNNE, Judge. ABRAMSON and BROWN, JJ., agree.

**OPINION BY:** ROBIN F. WYNNE

Chenal Restoration Contractors, LLC, (Chenal) appeals from an order of the circuit court granting in part and denying in part its motion to compel arbitration. In the order, the court found that the Arkansas Uniform Arbitration Act (AUAA) would apply instead of the Federal Arbitration Act (FAA) and that appellees' tort claims could not be arbitrated under the AUAA. Appellant argues that (1) the FAA should apply instead of the AUAA . . .. We reverse and remand the order of the circuit court.

Chenal contracted with Trade Wynds Imports, Inc. (TWI) . . . to replace the roof on TWI's store, which had been damaged by a tornado. The work authorization and direction to pay . . . states that in the event of a controversy the parties are unable to resolve themselves, the parties agree to participate in nonbinding mediation. If the mediation is unsuccessful, the parties will submit to binding arbitration. The authorization also states that TWI's insurer, Lafayette United Fire, which is an out-of-state insurer, is authorized to pay Chenal pursuant to the terms of TWI's policy. In the course of performing the work, Chenal purchased materials from out-of-state suppliers and subcontracted a Florida company to install the new roof after the old roof was removed.

After performing the work, Chenal claimed that it was not fully paid in accordance with the contract and filed a demand for arbitration [**Pittman – you can only “demand” arbitration if the parties agreed to this in the prior contract**] in which it claimed it was owed $165,518.44. On October 1, 2008, Chenal filed a materialman's lien in the amount of $165,518.44 on TWI's property. Chenal later filed a complaint for foreclosure against TWI. TWI then filed a counterclaim seeking economic recovery, relief, and punitive damages. The damaged roof contained asbestos tiles, and the counterclaim discusses at length the problems alleged by TWI with the removal and handling of the asbestos material. . . .

. . . Chenal filed a motion to compel arbitration. In the motion, Chenal alleged that the FAA applied because interstate commerce was implicated. [T]he circuit court . . . issued a letter opinion in which it found that the AUAA applied because there was not sufficient interstate commerce to trigger application of the FAA . . .. Chenal filed a timely appeal to this court.

Chenal is appealing from the denial of its motion to arbitrate under the FAA. . . . Chenal's first point on appeal is that the circuit court erred in finding that the FAA did not apply in this case. When the underlying dispute involves interstate commerce, the FAA, instead of the AUAA, applies. *. . .*  The FAA "applies if the transaction involves 'interstate commerce, even if the parties did not contemplate an interstate commerce connection,'" and "the language of the FAA makes an arbitration provision enforceable in 'a contract evidencing a transaction involving commerce . . . to the limits of Congress' Commerce Clause power.'" *. . .*

Chenal argues that interstate commerce is involved because it purchased supplies from out-of-state vendors and it subcontracted with a Florida company to perform part of the labor. The parties do not dispute that a company from Florida was subcontracted to install the new roof. The majority of TWI's counterclaim pertains to the removal of the old roof by Chenal. However, TWI does allege that the new roof is defective and was installed incorrectly, causing it to leak. TWI argues that the FAA should not apply because Chenal was the only party that engaged in out-of-state dealings. However, the standard to be applied is not whether each party engaged in interstate commerce. In fact, the parties do not even have to contemplate an interstate connection. *. . .*  Although the connection to interstate commerce in this case is arguably very slight, the United States Supreme Court's decision in *Allied-Bruce* . . . states that the reach of the FAA is to be stretched to the limit of Congress' Commerce Clause power. Based upon the facts presented, we hold that the underlying dispute between the parties involves interstate commerce and that the FAA applies. [**Pittman** - **The court is stating that federal law, the FAA, is applicable to this dispute and thus conflicting state law is rendered void**.]

. . .

Reversed and remanded.

ABRAMSON and BROWN, JJ., agree.