ILLINOIS STATE BAR ASSOCIATION

MAY 2016 VOL 61 NO. 8

Trial Briefs

The newsletter of the Illinois State Bar Association's Section on Civil Practice & Procedure

Arbitration clauses in the context of third-party beneficiary claims: An issue ripe for corporate consideration and Illinois Supreme Court review

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Under Illinois law in general, "only a party to a contract, or one in privity with a party, may enforce a contract . . . ." *Wilde v. First Fed. Sav. & Loan Ass'n of Wilmette*, 134 Ill. App. 3d 722, 731 (1st Dist. 1985). That said, when two parties enter into a contract there is at least a possibility that the contract could also lead to a third-party beneficiary claim. "[A] third party beneficiary may sue for breach of a contract made for his benefit . . . when the benefit is direct to him." *Id.*; *Advanced Concepts Chicago, Inc. v. CDW Corp.*, 405 Ill. App. 3d 289, 293 (1st Dist. 2010) ("It is well settled in Illinois law that if a contract is entered into for the direct benefit of a third party who is not a party to the contract, such third party is entitled to sue for breach of that contract. The test is whether the benefit to the third party is direct or incidental.") (citations omitted).

The key question in analyzing a third-party beneficiary claim is whether "the parties to the contract intended to confer a *direct* benefit on the purported third-party beneficiary." *Bank of Am. Nat. Ass'n v. Bassman FBT, L.L.C.*, 2012 IL App (2d) 110729 (2012) ¶ 27 (emphasis in original). Answering this question requires courts to "look at the terms of the contract and the circumstances surrounding the parties at the time of its execution." *Advanced Concepts*, 405 Ill. App. 3d 293. Importantly, the direct benefit conferred "does not have to be for the sole benefit of the third party as long as it is for its direct or substantial benefit." *Id.* Moreover, while the intent to benefit the third party must affirmatively appear from the language of the contract, it need not be express and may be implied so long as the implication is strong. *City of Yorkville ex rel. Aurora Blacktop Inc. v. Am. S. Ins. Co.*, 654 F.3d 713, 716–17 (7th Cir. 2011) (citing cases).

Because a party's status as a third-party beneficiary is thus a matter of contractual interpretation expansive enough even to include third parties not affirmatively named, the direct parties to a contract do not always consider how their contract could lead to third-party beneficiary claims. Instead, the direct parties frequently focus only on the rights and obligations amongst themselves—the actual signatories of the contract. This is a mistake, particularly where the contract at issue includes an arbitration clause which the parties to the contract want to enforce in all circumstances—including against any claimed third-party beneficiaries.

This mistake is exacerbated by the fact that the effect and interpretation of arbitration clauses in contracts susceptible to third-party beneficiary claims is unclear under Illinois law. For example, does the arbitration clause apply to third-party beneficiaries? If the parties intend that it does, what language is required? The answers to these questions are not clear under current Illinois law.

This article discusses the current state of the law in Illinois considering arbitration clauses and third-party beneficiary claims. The article suggests that there is a conflict in Illinois law related to this issue ripe for Supreme Court review. Further, the article proposes an approach to consider for resolving this conflict. Finally, the article recommends certain steps that attorneys should consider in drafting arbitration clauses in their contracts.

I. Alleged Third Party Beneficiaries and Arbitration Clauses—A Conflict in Illinois Law

Illinois law appears split regarding whether a non-signatory who seeks to obtain the benefit of an agreement as a third-party beneficiary is required to arbitrate his or her claim pursuant to a valid arbitration clause within that agreement. One line of cases appears to broadly suggest that a claimed third-party beneficiary *cannot* be compelled to arbitrate pursuant to a valid arbitration clause within the agreement from which the beneficiary seeks to benefit. *See, e.g.*, *City of Peru v. Illinois Power Co.*, 258 Ill. App. 3d 309, 313 (3d Dist. 1994) ("[P]ersons who are *not* parties to an arbitration agreement *cannot* be compelled to participate in arbitration") (emphasis in original); *Royal Indem. Co. v. Chicago Hosp. Risk Pooling Program*, 372 Ill. App. 3d 104, 110 (1st Dist. 2007) (citing *City of Peru* for the same); *Brooks v. Cigna Prop. & Cas. Cos.*, 299 Ill. App. 3d 68, 72 (1st Dist. 1998) ("[A] nonparty to the contract or a third-party beneficiary cannot be compelled to arbitrate.").

By contrast, a second line of cases appears to suggest that third-party beneficiaries seeking to enforce contracts containing arbitration provisions may be bound to arbitrate contractual disputes as if they were parties to the agreements at issue. *See, e.g.*, *Dannewitz v. Equicredit Corp. of Am.*, 333 Ill. App. 3d 370, 373 (1st Dist. 2002) ("The third-party beneficiary doctrine applies to arbitration agreements. Where it is shown that the signatories to the agreement intended that the nonsignatories were to derive benefits from the agreement and where the arbitration clause itself is *susceptible* to this interpretation, then arbitration is proper.") (citations omitted and emphasis added); *Johnson v. Noble*, 240 Ill. App. 3d 731, 735–36 (1st Dist. 1992) (same); *Equistar Chems., LP v. Hartford Steam Boiler Inspection & Ins. Co. of Conn.*, 379 Ill. App. 3d 771, 778–80 (4th Dist. 2008) (recognizing several contract-based theories, including status as a third-party beneficiary, under which a nonsignatory may be bound to the arbitration agreements of others and finding that if a third-party "step[s] into the shoes of" a party to a contract, it should be bound to arbitration under that contract to the same extent as the original party even where the agreement itself specifically described its rights in a way that was limited to the parties themselves); *Tortoriello v. Gerald Nissan of N. Aurora, Inc.*, 379 Ill. App. 3d 214, 240 (2d Dist. 2008) ("A third-party beneficiary is bound by the terms of the contract in the same manner as the parties are bound. The third-party beneficiary doctrine applies to arbitration agreements.") (citations omitted); *Ervin v. Nokia, Inc.*, 349 Ill. App. 3d 508, 514 (5th Dist. 2004) ("Illinois courts have found that a nonsignatory can enforce an arbitration clause if it is determined that the nonsignatory qualifies as a third-party beneficiary of the agreement."); *see also Caligiuri v. First Colony Life Ins. Co.*, 318 Ill. App. 3d 793, 801, 804 (1st Dist. 2000) (compelling arbitration against a third-party beneficiary based on federal law and also noting that "federal courts have recognized contract-based theories under which a non-signatory may be bound to the arbitration agreements of others, such as: (1) incorporation by reference; (2) assumption; (3) agency; (4) veil-piercing or alter ego; and (5) estoppel. It would seem to follow as a corollary that the same types of theories could afford a basis for a non-signatory to invoke an arbitration agreement signed by others. Indeed, this court has suggested that this is the rule.") (citation omitted).

Federal cases interpreting or considering Illinois law tend to endorse this second line of cases. For example, the Seventh Circuit, interpreting Illinois law, has stated that while only signatories to an agreement can generally file a motion to compel arbitration, "[t]his principle is subject to certain 'contract-based theories under which a nonsignatory may be bound to the arbitration agreements of others,' including the third-party beneficiary doctrine." *Cont'l Cas. Co. v. Am. Nat'l Ins. Co.*, 417 F.3d 727, 734–35 (7th Cir. 2005) (affirming the district court's dismissal of case based on third-party beneficiary's right to enforce mandatory arbitration clause). Similarly, the U.S. District Court for the Central District of Illinois, in a case which ultimately applied Florida law but in which the court discussed Illinois law, explained that enforcing an arbitration clause with respect to a third-party beneficiary furthers the interests of justice. The court found that, under Illinois law, a non-signatory to a contract cannot avoid arbitration under its provisions while simultaneously attempting to enforce the contract as an intended third-party beneficiary. *Camp v. TNT Logistics Corp.*, No. 04-1358, 2006 WL 91318, at *3–4 (C.D. Ill. Jan. 12, 2006); *see also Int'l Ins. Agency Servs., LLC v. Revios Reinsurance U.S., Inc.*, No. 04 C 1190, 2007 WL 951943, at *3, 5 (N.D. Ill. Mar. 27, 2007) (recognizing that "a third-party beneficiary of a contract is bound by the contract's arbitration provision" and granting motion to compel arbitration under federal law, noting that a plaintiff cannot "hav[e] it both ways" so that if a plaintiff "is going to use its relationship to the parties in the agreements to create standing then it must also submit to the arbitration provision in the agreement"). Courts in other state and federal jurisdictions have found similarly. *See*, *e.g., Ex parte Dyess*, 709 So. 2d 447, 451 (Ala. 1997) (holding that a third-party beneficiary who was attempting to benefit from a policy while avoiding its arbitration clause would have to arbitrate any claim he had under the policy); *Johnson v. Pa. Nat'l Ins. Cos.*, 527 Pa. 504, 508–10 (1991) (holding that "third party beneficiaries are bound by the same limitations in the contract as the signatories of that contract," including the arbitration clause); *Dist. Moving & Storage Co., Inc. v. Gardiner & Gardiner, Inc.*, 63 Md. App. 96, 102–03 (Md. Ct. Spec. App. 1985) (finding that a third-party beneficiary is bound by the contract's arbitration clause in the same manner in which the party is bound) *aff'd sub nom. Dist. Moving & Storage, Inc. v. Fedco Sys., Inc.*, 306 Md. 286 (1986); *Moore v. Houses on the Move, Inc.*, 177 Ohio App. 3d 585, 592 (Ohio Ct. App. 8th Dist. 2008) ("[N]onsignatories can be 'bound to an arbitration agreement via the theories of incorporation by reference, assumption, agency, veil-piercing/alter ego, and third-party beneficiary.'"); *InterGen N.V. v. Grina*, 344 F.3d 134, 146 (1st Cir. 2003) ("[A] third-party beneficiary of a contract containing an arbitration clause can be subject to that clause and compelled to

arbitrate on the demand of a signatory."); *Bouriez v. Carnegie Mellon Univ.*, 359 F.3d 292, 294 (3d Cir. 2004) ("[T]he common law theories used to bind a non-signatory to an arbitration clause include third party beneficiary, agency and equitable estoppel."); *Cabrera-Morales v. UBS Trust Co. of P.R.*, 769 F. Supp. 2d 67, 72 (D.P.R. 2011) ("[A] third-party beneficiary of a contract containing an arbitration clause can be subject to that clause and compelled to arbitrate on the demand of a signatory."); *Painting Co. v. Weis Builders, Inc.*, No. 2:08-CV-473, 2009 WL 150674, at *4 (S.D. Ohio Jan. 21, 2009) (holding that third-party beneficiary had "no more right to avoid the unequivocal forum choice of the main construction contract in this case than do the signatory parties" and could not avoid arbitration).

This apparent conflict in Illinois law has consequences for litigants. The first line of cases—suggesting that alleged third-party beneficiaries *cannot* be compelled to arbitrate—could allow a third-party beneficiary to unilaterally decide to try and accept the benefits of a contract while simultaneously avoiding its obligations (such as an arbitration clause). This, in turn, significantly weakens the effect of the actual contract signatories' agreement to resolve disputes in arbitration rather than the courts. Indeed, while the signatories may have to resolve disputes between themselves in arbitration pursuant to their agreement, they could still find themselves in traditional in-court litigation brought by a third-party beneficiary. In other words, this first line of cases could impose in-court litigation on terms contractual signatories specifically attempted to avoid.

The second line of cases—suggesting that alleged third-party beneficiaries may be compelled to arbitrate—more broadly favors arbitration in general. Furthermore, it allows the signatories to a contract the benefit of their arbitration agreement not only in disputes amongst themselves, but also in disputes brought by alleged third-party beneficiaries seeking to assume certain of a contract's benefits. This second line of cases may thus discourage certain claims by ensuring that any alleged third-party beneficiary is forced to bring his or her suit in arbitration rather than in his or her chosen forum or method (a class action, for example).

II. Resolving the Conflict Logically

Resolving the above-described conflict is important for plaintiffs and defendants alike. Plaintiffs should know whether alleging third-party beneficiary claims in litigation will make their lawsuits susceptible to an arbitration they might otherwise wish to avoid (which could lead them to drop their third-party beneficiary claims in the first place). By the same token, defendants should know whether they can force an alleged third-party beneficiary into arbitration under any circumstances and, if so, what contractual language is necessary to accomplish that goal. This article submits that contractual signatories should have the ability to broadly enforce their arbitration clauses against alleged third-party beneficiaries and that doing so most faithfully follows general Illinois legal principles regarding arbitration, the law of contract, and the third-party beneficiary doctrine.

Illinois courts interpret arbitration clauses broadly and it is well-established that arbitration is a favored method of dispute resolution. *See Salsitz v. Kreiss*, 198 Ill. 2d 1, 13 (2001); *Fahlstrom v. Jones*, 2011 IL App (1st) 103318, at ¶ 16 (2011) ("[A]rbitration is a favored alternative to litigation by state, federal and common law because it is a speedy, informal, and relatively inexpensive procedure for resolving controversies arising out of commercial transactions.") (internal quotations and citations omitted). Indeed, where a contract contains a binding arbitration provision, Illinois courts recognize that "the decision whether to compel arbitration is not discretionary." *Travis v. Am. Mfrs. Mut. Ins. Co.*, 335 Ill. App. 3d 1171, 1175 (5th Dist. 2002). Instead, "[w]here there is a valid arbitration agreement and the parties' dispute falls within the scope of that agreement, arbitration is *mandatory* and the trial court *must* compel it." *Id.* (emphasis added); *see also First Condo. Dev. Co. v. Apex Const. & Eng'g Corp.*, 126 Ill. App. 3d 843, 846 (1st Dist. 1984) ("Once a contract containing a valid arbitration clause has been executed the parties are irrevocably committed to arbitrate all disputes arising under the agreement."). Considering this baseline in favor of arbitration, courts should presume that arbitration clauses apply to alleged third-party beneficiaries. *See Fahlstrom*, 2011 IL App (1st) 103318 at ¶ 17 (interpreting an arbitration clause and finding that, in keeping with Illinois policy favoring arbitration, "generic" arbitration clauses must be interpreted broadly to include "*any* dispute that arguably arises under an agreement" containing such a clause, and stating that "[a]rbitration clauses which have been properly characterized as 'generic' include those demanding the arbitration of all claims or disputes 'arising out of' or 'arising out of or related to' or 'regarding' the agreement at issue") (emphasis in original and citation omitted).

The same presumption holds under Illinois contract law and the third-party beneficiary doctrine. Illinois law requires the interpretation of contracts as a whole. *See, e.g.*, *Gallagher v. Lenart*, 226 Ill. 2d 208, 233 (2007) ("[B]ecause words derive their meaning from the context in which they are used, a contract must be construed as a whole, viewing each part in light of the others."). And, as a general rule, third-party beneficiaries are subject to all of a contract's terms, including terms they may view as limitations. *See Midwest Concrete v. LaSalle Nat. Bank*, 94 Ill. App. 3d 394, 397 (1st Dist. 1981) (observing that the terms of the contract control the rights of a third-party beneficiary and liability cannot extend beyond those terms); *Gallopin v. Cont'l Cas. Co.*, 290 Ill. App. 8, 13 (1st Dist. 1937) ("[I]t is a well-recognized principle that where a contract is entered into by two parties for the benefit of a third, the third person's rights are subject to the equities between the original parties springing out of the transaction between them."); *accord* Restatement (2d) of Contracts § 309 cmt. b. (1981) ("Where there is a contract, the right of a beneficiary is subject to any limitations imposed by the terms of the contract."); 12A Illinois Law & Practice Contracts § 193 (2016) ("Furthermore, a third-party beneficiary of a contract may not selectively enforce the provisions of the contract, but is subject to the whole contract as formed by its parties.").

Consistent with these basic rules,

third-party beneficiaries "must take the contract as the original parties made it" and are "bound by *all* of its provisions." *L. B. Herbst Corp. v. N. Ill. Corp.*, 99 Ill. App. 2d 101, 105 (2d Dist. 1968) (emphasis added); 12A Illinois Law & Practice Contracts § 193 (2013) (same). As such, a third-party beneficiary should not be allowed to "take those parts of the contract which favor him and reject those parts which distress him." *L.B. Herbst*, 99 Ill. App. 2d 105; *see also R & L Grain Co. v. Chicago E. Corp.*, 531 F. Supp. 201, 209 (N.D. Ill. 1981) (noting that, under Illinois law, "a third-party beneficiary to a contract may not selectively enforce provisions of the contract, but is subject to the whole contract as formed by the parties thereto").

In light of the above, and because they are specifically seeking to read themselves into contracts, alleged third-party beneficiaries should find themselves bound not only to those portions of the contract they like, but also those provisions they would rather avoid—including arbitration clauses. It cannot be, as some courts have been read to suggest, *see*, *e.g.*, *City of Peru*, 258 Ill. App. 3d 313, that a person who is not a party to an arbitration agreement may never be compelled to arbitrate. Instead, where the language is *susceptible* to a construction compelling arbitration, it should be compelled, even if the arbitration clause does not specifically reference third-party beneficiaries or references only the actual parties to the contract at issue. *See, e.g.*, *Dannewitz*, 333 Ill. App. 3d 373 ("The third-party beneficiary doctrine applies to arbitration agreements. Where it is shown that the signatories to the agreement intended that the nonsignatories were to derive benefits from the agreement and where the arbitration clause itself is *susceptible* to this interpretation, then arbitration is proper.") (citations omitted and emphasis added).

This article suggests that adopting the above-noted approach is the best way to follow general Illinois law regarding arbitration, contract, and third-party beneficiaries. Furthermore, it finds support in persuasive case law outside of Illinois. In *Benton v. Vanderbilt Univ.*, the Tennessee Supreme Court considered the interplay between alleged third-party beneficiaries and arbitration clauses and held that an arbitration provision was binding against a third-party beneficiary despite the fact that the arbitration provision at issue specifically referenced the parties (and not any alleged third-party beneficiaries). 137 S.W.3d 614, 618–19 (Tenn. 2004).

The plaintiff in *Benton* brought a third-party beneficiary claim seeking to enforce rights under a contract between his insurer, Blue Cross Blue Shield of Tennessee ("BCBS of Tennessee"), and the Vanderbilt University Medical Center ("Vanderbilt"), the medical facility that treated him after a car accident. *Id.* at 616–17. Following the *Benton* plaintiff's accident, Vanderbilt billed BCBS of Tennessee for the plaintiff's treatment and was reimbursed at a discounted rate pursuant to its contract with BCBS of Tennessee. *Id.* at 616. Vanderbilt later filed a statutory notice of hospital lien against any potential monetary recovery the plaintiff might receive through his lawsuit against the other driver for personal injuries he received in the accident. *Id.* The facility's goal was to make up the difference between the amount it had received from BCBS of Tennessee and the price of its treatment of the plaintiff. *Id.*

The plaintiff in *Benton* filed a complaint against Vanderbilt alleging, among other claims, a breach of the contract between the medical facility and his insurer. *Id.* at 616. Vanderbilt sought to compel arbitration, citing the plaintiff's alleged status as third-party beneficiary to the contract. *Id.* The arbitration clause at issue provided for the arbitration of disputes arising "between the parties" of the agreement after various notice provisions were met and in the event the dispute was not resolved prior to arbitration. *Id.* at 617.

The plaintiff asserted that he could not be bound to the arbitration clause because he was not a "party" to the agreement. *Id.* The defendant claimed that the plaintiff was bound because "he was a third-party beneficiary seeking to enforce rights under the contract." *Id.* Ultimately, the Tennessee Supreme Court agreed with the defendant. In doing so, it started by noting that arbitration agreements are favored. *Id.*

The court then discussed the rights and obligations of third-party beneficiaries. *Id.* at 618. It noted that a third-party beneficiary's rights depend upon and are measured by the terms of the contract itself. *Id.* Further, it noted that "if the beneficiary accepts, he adopts the bad as well as the good, the burden as well as the benefit." *Id.* (citation omitted).

Finally, the court considered "whether an arbitration provision in a contract is binding against a third-party beneficiary who brings an action seeking to enforce the terms of that contract." *Id.* The court noted that "[a]lthough this is a question of first impression in Tennessee, numerous courts and legal commentators have held as a general rule that a third-party beneficiary who seeks to enforce rights under a contract is bound by an arbitration provision in that contract." *Id.* (citing *Ex parte Dyess*, 709 So. 2d 447, 451 (Ala. 1997) and Restatement (2d) of Contracts § 309 cmt. b (1981)). The court also pointed out that "one leading commentator states, 'where [a] contract contains an arbitration clause which is legally enforceable, the general rule is that the beneficiary is bound thereby to the same extent that the promisee is bound.'" *Id.* (citing *Williston on Contracts* § 364 A. (3d ed. 1957)).

After discussing various decisions requiring arbitration under similar circumstances, the court noted that some cases, including *City of Peru*, exempted third-party beneficiaries from arbitration provisions in contracts by emphasizing contractual language which limited the arbitration clause to the parties to the agreement. *Id.* at 619. Rejecting these cases, the court found that decisions compelling arbitration reflected the better-reasoned approach, particularly in light of the support provided for such an approach in the Restatement and *Williston*. *Id.*

Benton is instructive and Illinois law is consistent with all of the general legal principles the *Benton* court relied on in reaching its decision compelling arbitration. Illinois law favors arbitration, provides that claimed third-party beneficiaries are subject to contractual benefits and obligations, and requires the interpretation of contracts as a whole. If and when this issue reaches the Illinois Supreme Court, *Benton* could

thus provide a persuasive roadmap for the Court's consideration.

III. Avoiding Issues with Third Party Beneficiaries Now

This article suggests that courts *should presume* that alleged third-party beneficiaries are bound by the terms of broadly worded, general arbitration clauses. Illinois courts, however, have not consistently adopted that approach. Instead, Illinois courts appear to parse the language of arbitration clauses on a case-by-case basis without a presumption in favor of arbitration for claimed third-party beneficiaries. Without a presumption, the question becomes how to draft contracts *now* to include alleged third-party beneficiaries.

To start, contractual signatories that seek to ensure arbitration in as broad a manner as possible need to do more than rely on stock or boilerplate language providing arbitration for "any and all claims." This is particularly the case where the arbitration clause includes terms that specifically name the signatories or that delineate and describe the steps that those signatories must take as part of any arbitration. In those situations, a court might not enforce the arbitration clause against an alleged third-party beneficiary because the contract names and describes the contractual signatories, but does not include third-party beneficiaries. A court might reason, for example, that because the arbitration clause specifically references the parties, only the parties are included, not third-party beneficiaries.

Following from the above, the parties to a contract should specifically and explicitly delineate that alleged third-party beneficiaries *are* bound by arbitration clauses in the same manner as the parties. The contractual signatories could include terms specifically noting, for example, that the arbitration clause applies to any alleged third-party beneficiaries to the same extent it applies to the direct parties. Further, to the extent the arbitration clause delineates and describes certain steps or requirements that the signatories must take as part of the arbitration, those terms should likewise describe how the same or other steps and requirements apply in the context of a claimed third-party beneficiary. In short, direct contractual parties that wish their arbitration clauses to cover all potential claims that might arise under a contract—including any third-party beneficiary claims—should ensure that their arbitration clauses make that point as explicitly as possible.

Direct parties to a contract might wonder why they should include such terms in a contract in which they have no intention of creating third-party beneficiary rights in the first place. While this reasoning makes sense, it may not stop aggressive future litigants from pursuing third-party beneficiary claims anyway. And, in those cases, the contractual signatories would still likely prefer to arbitrate, rather than litigate, that dispute. To ensure that happens, direct contractual parties should consider the steps described above.

Furthermore, careful drafting should alleviate any concerns that adding alleged third-party beneficiaries to an arbitration clause would somehow suggest that the contract's signatories *did intend* to create third-party beneficiary rights in their contract. The contract could note, for instance, that while it does not provide, and the parties have no intention of providing, third-party beneficiary rights, any claimed third-party beneficiary is still required to arbitrate.

Conclusion

Arbitration is an increasingly favored method of dispute resolution. *Phoenix Ins. Co. v. Rosen*, 242 Ill. 2d 48, 59 (2011) (noting Illinois' public policy in favor of arbitration reflected further in the legislature's adoption of the Uniform Arbitration Act). Sophisticated corporate contracts frequently include arbitration clauses as a means to limit the expense and burden of in-court litigation. *Bd. of Managers of Courtyards at Woodlands Condo. Ass'n v. IKO Chicago, Inc.*, 183 Ill. 2d 66, 71 (1998) ("It is a well-established principle that arbitration is a favored alternative to litigation by state, federal and common law because it is a speedy, informal, and relatively inexpensive procedure for resolving controversies arising out of commercial transactions.") (citations and quotations omitted). But contractual signatories might not always consider how courts will construe their arbitration clauses in the context of alleged third-party beneficiary claims, particularly where those signatories do not intend to create any third-party beneficiary rights. Ignoring this issue is unwise, particularly in Illinois where the law on this topic is unsettled. This article suggests that broadly-worded arbitration clauses should presumptively apply to claimed third party beneficiaries; however, Illinois law does not currently recognize such a presumption. Without this presumption, contractual signatories in Illinois should consider ensuring that their contracts specifically and explicitly state that alleged third-party beneficiaries are covered by their terms. ■

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