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New Jersey Federal Court Enforces Mandatory Arbitration Clause Against Purported Co-Insurer

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Houston Casualty Co. v. Kinsale Insurance Co., 2025 U.S. Dist. LEXIS 192983 (D.N.J. Sept. 30, 2025)

September 30, 2025, the United States District Court for the District of New Jersey enforced a mandatory arbitration clause against a purported co-insurer which was not party to the policy. In *Houston Casualty v. Kinsale*, the general contractor on a construction project was ARC New Jersey LLC, which had hired FM Construction Group LLC as subcontractor. FM, in turn, hired Don Carlos Construction LLC as the roofing and siding sub-subcontractor. Don Carlos was insured by Kinsale, which policy contained a mandatory arbitration provision. A Don Carlos employee commenced a bodily injury action against ARC and FM, which tendered their defense to Kinsale, purporting to qualify as additional insureds under the policy issued to Don Carlos. ARC and FM were specifically named as additional insureds under the Kinsale policy. When Kinsale did not accept the tenders, ARC and FM's insurer, HCC, commenced a declaratory judgment action seeking a determination of additional insured status for ARC and FM. The arbitration provision in the Kinsale policy applied to "all disputes over coverage or any rights afforded under this Policy, including whether an entity or person is . . . an additional insured." Kinsale moved to compel arbitration, arguing that HCC was bound by the arbitration provision on the basis of equitable estoppel because HCC was seeking to enforce ARC's and FM's rights. HCC argued that it was asserting an independent claim for contribution such that the estoppel doctrine did not apply. The court granted Kinsale's motion on the basis of the "knowingly exploits" estoppel theory, which prevents a non-party to a contract from both seeking benefits under the contract and ignoring portions of the contract the non-party dislikes. In so holding, the court rejected HCC's argument that its claim was one for contribution. Instead, the court determined that HCC's claim was one for subrogation of ARC's and FM's rights under the Kinsale policy, such that the mandatory arbitration provision applied to HCC's claims.