ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY

BENSON V. CASA DE CAPRI ENTERPRISES, LLC; CONTINUING CARE RISK RETENTION GROUP, INC.
CV-20-0331-CQ

PARTIES:

Plaintiffs/Appellants: Jacob Benson, an individual; Joseph Benson; Deborah Benson, husband and wife; K.B., a minor by and through Jacob Benson, guardian ad litem

Defendant/Appellee: Casa De Capri Enterprises, LLC

Garnishee/real party in interest: Continuing Care Risk Retention Group, Inc.

FACTS:

Continuing Care Risk Retention Group ("CCRRG") provides liability insurance to skilled nursing facilities. From January 2012 to August 2013, CCRRG insured Casa De Capri Enterprises ("Capri"), a skilled nursing facility, under a "Claims Paid" insurance policy that provided up to $1,000,000 in liability coverage. The policy had an arbitration provision, which states:

> Any dispute or controversy arising under, out of, in connection with or in relation to this Policy shall be submitted to, and determined and settled by, arbitration in Sonoma County, California[.] . . . Any demand for arbitration by a CCRRG Member under this Policy must be made within twelve (12) months of any dispute arising out of this "Policy", including, but not limited to any denial by CCRRG of defense or reimbursement whether in whole or in part, of any "Claim" dispute or controversy that arises. . . . The parties agree that any such award shall also be final and binding in a direct action against CCRRG by any judgment creditor of a CCRRG Member.

Capri and CCRRG also signed a Subscription Agreement containing a substantially similar arbitration provision.

On December 10, 2012, Jacob Benson and his family ("the Bensons") sued Capri in Maricopa County Superior Court, alleging negligence and abuse of Jacob. Jacob, a "vulnerable adult," was a resident at Casa De Capri. Capri tendered the Bensons' claim to CCRRG, which provided a defense. In August 2013, Capri filed a Chapter 11 bankruptcy petition, triggering an automatic stay of all litigation against it. Capri then cancelled its insurance policy with CCRRG, effective August 1, 2013. Citing the policy's terms, CCRRG then withdrew from its defense of the Bensons' claims and disclaimed any further coverage in the action.

Three years later, the Bensons obtained an order partially lifting the bankruptcy stay so that their action against Capri could proceed. As part of this order, the Bensons also obtained an assignment of Capri's potential bad faith insurance claim against CCRRG. On December 1, 2017, the state court entered an approximately $1.5 million uncontested judgment in favor of the Bensons and against Capri.

After judgment was entered, the Bensons filed a writ of garnishment against CCRRG, seeking to obtain from CCRRG the $1.5 million owed under the Bensons' judgment against Capri, plus interest. CCRRG removed the garnishment action to federal court based on diversity of citizenship, and then moved to compel arbitration under the insurance policy's arbitration clause. In response, the Bensons maintained that they could not be required to arbitrate because their garnishment action was not premised on an assignment of Capri's coverage claims under the CCRRG policy, and the Bensons themselves were not signatories to that policy. CCRRG maintained that the Bensons sought to avail themselves of the benefits of the CCRRG policy, and so should be bound by its terms—including the arbitration clause. CCRRG also disputes that it would owe any coverage to Capri because Capri cancelled its policy.

Applying Arizona law, the district court granted CCRRG's motion to compel arbitration and dismissed the action, holding that the Bensons, though non-signatories to the policy, were bound to its arbitration clause under Arizona's doctrine of direct benefits estoppel. The Bensons appealed. The Ninth Circuit certified these questions to this court:

QUESTIONS CERTIFIED:

1) In a garnishment action by a judgment creditor against the judgment debtor's insurer claiming that coverage is owed under an insurance policy, where the judgment creditor is not proceeding on an assignment of rights, can the insurer invoke the doctrine of direct benefits estoppel to bind the judgment creditor to the terms of the insurance contract?

2) If yes, does direct benefits estoppel also bind the judgment creditor to the arbitration clause contained in the insurance policy?