

LONG TERM CARE & SENIOR LIVING BLOG

# Appeal From Order Denying Arbitration Must Be Filed Within 10 Days

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In *Sanford v. CenturyTel of Missouri, LLC, d/b/a CenturyLink*, No. SC95465 (Mo. en banc 2016), the Missouri Supreme Court recently held that an order denying a motion to compel arbitration is immediately appealable. The order denying arbitration must be appealed within 10 days from entry to avoid waiting for a final judgment after trial to challenge the denial.

Missouri Revised Statute § 435.440 states that an appeal may be taken from an order denying an application to compel arbitration. Under Rule 81.04 of the Missouri Rules of Civil Procedure, “no such appeal shall be effective unless the notice of appeal shall be filed not later than 10 days after the judgment or order appealed becomes final.” In *Sanford*, the defendant argued that a judgment becomes final 30 days after it is entered and therefore, his appeal filed more than 10 days after entry of the order was timely. However, the court ruled that an order denying arbitration is an interlocutory order that is not “final” because it remains modifiable by the trial court and as a result, orders denying motions to compel arbitration are immediately appealable under § 435.440 and must be appealed within 10 days. The court noted that failing to appeal such a motion within the 10-day window does not preclude a party from appealing a denial of the arbitration request after the trial court renders a final judgment at the conclusion of the civil lawsuit, but that would defeat the a central benefit of arbitration, which is to avoid the expenses associated with lengthy discovery and trial.

This is an important deadline for nursing home defendants who wish to appeal orders denying motions to compel arbitration before engaging in costly discovery.