

**SUPREME COURT OF THE STATE OF NEW YORK**  
*Appellate Division, Fourth Judicial Department*

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**CA 15-00816**

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, DEJOSEPH, AND SCUDDER, JJ.

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IN THE MATTER OF ARBITRATION BETWEEN  
ONONDAGA-CORTLAND-MADISON BOARD OF COOPERATIVE  
EDUCATIONAL SERVICES, PETITIONER-APPELLANT,

AND

MEMORANDUM AND ORDER

ONONDAGA-CORTLAND-MADISON BOCES FEDERATION OF  
TEACHERS, ET AL., RESPONDENTS-RESPONDENTS.

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FERRARA FIORENZA P.C., EAST SYRACUSE (CRAIG M. ATLAS OF COUNSEL), FOR  
PETITIONER-APPELLANT.

RICHARD E. CASAGRANDE, LATHAM (MATTHEW E. BERGERON OF COUNSEL), FOR  
RESPONDENTS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Onondaga County  
(Anthony J. Paris, J.), entered August 19, 2014. The order denied the  
petition to stay arbitration and granted the cross application to  
compel arbitration.

It is hereby ORDERED that the order so appealed from is  
unanimously affirmed without costs.

Memorandum: Petitioner commenced this proceeding pursuant to  
CPLR article 75 seeking a permanent stay of arbitration. Respondents  
are labor organizations that represent separate groups of employees,  
and they filed grievances alleging that petitioner violated a certain  
provision of each collective bargaining agreement (CBA) by changing  
the prescription copay benefit for retirees. Supreme Court denied the  
petition and granted the cross application of respondents to compel  
arbitration. We affirm.

It is well settled that the court must conduct a two-part  
analysis in determining whether an issue is subject to arbitration  
pursuant to a CBA. First, the court must determine "whether there is  
any statutory, constitutional or public policy prohibition against  
arbitration of the grievance" (*Matter of Mariano v Town of Orchard  
Park*, 92 AD3d 1232, 1233 [internal quotation marks omitted]). Second,  
the court must determine "whether there is a reasonable relationship  
between the subject matter of the dispute and the general subject  
matter of the CBA" (*Matter of Board of Educ. of Watertown City Sch.  
Dist. [Watertown Educ. Assn.]*, 93 NY2d 132, 143). Petitioner  
correctly concedes that only the second part of the analysis is at  
issue here.

We reject petitioner's contention that the matter is not arbitrable because the CBA provisions apply only to the employees, and not to retirees, and thus that there is no reasonable relationship between the copay benefit for retirees and the general subject matter of the respective CBAs. "Rather, issues concerning [respondents' respective] relationship[s] to retired employees, issues concerning whether retirees are covered by the grievance procedure, and issues concerning whether the clauses of the contract[s] support the grievance are matters involving the scope of the substantive contractual provisions and, as such, are for the arbitrator" (*Mariano*, 92 AD3d at 1233-1234; see *Matter of Village of Kenmore [Kenmore Club Police Benevolent Assn.]*, 114 AD3d 1185, 1186, lv denied 23 NY3d 903).

Entered: February 5, 2016

Frances E. Cafarell  
Clerk of the Court