

Mar 29 2023

STATE OF SOUTH CAROLINA

SC Court of Appeals

IN THE COURT OF COMMON PLEAS

COUNTY OF PICKENS



Deonda Weldon, Individually and as
Personal Representative of the Estate
of Earline Cooley,

C.A. Number: 2021-CP-39-01127 &
2021-CP-39-01128

Plaintiff,

v.

DEFENDANTS DOMINION CLEMSON, LLC
d/b/a DOMINION SENIOR LIVING AT
PATRICK SQUARE AND DOMINION
SENIOR LIVING, LLC'S MOTION TO
COMPEL ARBITRATION AND
PROTECTIVE ORDER FROM DISCOVERY

Dominion Clemson, LLC d/b/a
Dominion Senior Living at Patrick
Square, Dominion Senior Living,
LLC, Dominion Clemson, II, LLC,
Dominion Management Group, LLC
And Dominion Group, LLC,

Defendants.

TO: PLAINTIFF AND HER ATTORNEY MATTHEW W. CHRISTIAN, ESQ.

YOU WILL PLEASE TAKE NOTICE that Defendants Dominion Clemson, LLC d/b/a Dominion Senior Living at Patrick Square (“Dominion Clemson”), Dominion Senior Living, LLC (“Dominion Senior Living”), Dominion Clemson, II, LLC, Dominion Management Group, LLC, and Dominion Group, LLC (collectively, “Defendants”) through their undersigned attorneys, will move on the tenth (10th) day after service of this Motion, or as soon thereafter as this matter can be heard, for an Order compelling arbitration and for a protective order from discovery pursuant to Rule 12(b)(1), (2), (3) and (6), SCRCP, Rule 26(c), SCRCP, the Federal Arbitration Act (9 U.S.C. § 1, et seq.), and all applicable statutory and case law. As part of Defendants’ Motion to Compel Arbitration, Defendants seek an Order requiring that arbitration be compelled subject to the limitations set forth in the Dominion Senior Living Resident Admission Agreement

(“Admission Agreement”), attached hereto as part of Exhibit A. The Admission Agreement limits awardable damages as follows:

1. Net economic damages shall be offset by any collateral source payments.
2. Non-economic damages shall be limited to a maximum of \$250,000.00.
3. Interest on unpaid fees shall not be awarded.
4. Punitive damages shall not be awarded.

More particularly, this Motion is based on the terms and provisions of the arbitration clause found in the Admission Agreement (see Exhibit A). The terms of the Admission Agreement expressly provide that all disputes for \$15,000.00 (Fifteen Thousand and 0/100) dollars or more between the parties will be resolved by binding arbitration in South Carolina. The Admission Agreement was executed at or around March 2019 at which time Earline Cooley was admitted to Dominion Clemson and was signed by Earline Cooley’s available and present Durable Power of Attorney and Durable Healthcare Power of Attorney. A copy of the Durable Power of Attorney recently produced by Plaintiff in discovery is attached hereto as Exhibit B. In addition to Exhibit A and Exhibit B, Earline Cooley’s Healthcare Power of Attorney is attached as Exhibit C.

Further, because this matter is required to be submitted to binding arbitration, Defendants respectfully request that this Court stay and protect Defendants from any requirement to file any further responsive pleadings, respond to any motions filed by Plaintiff, or respond to any discovery served by Plaintiff, in particular Plaintiff’s March 22, 2022 pending Motion to Compel with this Court. Alternatively, Defendants request that these proceedings be stayed pending the outcome of arbitration pursuant to Section 3 of the Federal Arbitration Act.

In support of this Motion, Defendants will rely on all attachments filed herewith, and any memoranda of law, affidavits, or exhibits that it might file before the hearing of the Motion.

s/Joshua T. Thompson
Joshua T. Thompson, Esq. (SC Bar #79137)
Ayla Luers Connor, Esq.(SC Bar # 103057)
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Attorney for Defendants

June 9, 2022

Spartanburg, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS)
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)
)
 Deonda Weldon, Individually and as)
 Personal Representative of the Estate)
 of Earline Cooley,)
)
)
 Plaintiff,)
)
)
 v.)
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 Dominion Clemson, LLC d/b/a)
 Dominion Senior Living at Patrick)
 Square, Dominion Senior Living,)
 LLC, Dominion Clemson, II, LLC,)
 Dominion Management Group, LLC)
 And Dominion Group, LLC,)
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