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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
The Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No.2023-001506
Case No. 2022-CP-04-02159

Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson,
Natalie Mann, Mya Ourada, Braden Terrill, & Aneil Tripathi Respondents,

v.

Starbucks, Inc. and Melissa Morris,..... Appellants,

RECORD ON APPEAL

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Certificate of Counsel

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS FOR
	)	THE TENNTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	
Skylar Blume, Virgil Dowis, Rhi Greer,	)	Case No. 2022-CP-04-02159
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, and Aneil Tripathi,	)	
	)	ORDER GRANTING MOTION TO
Plaintiffs,	)	STAY AND DENYING MOTION TO
	)	COMPEL
vs.	)	
	)	
Starbucks Corporation and Melissa Morris,	)	
	)	
Defendants.	)	

BEFORE THE COURT are Defendant Starbucks Corporation’s (“Starbucks”) Motion to Acknowledge an Automatic Stay, and Plaintiffs Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada, Braden Terrill, and Aneil Tripathi (“Plaintiffs”) Motions to Compel Discovery Responses from Starbucks and Defendant Melissa Morris (“Morris”). This matter came before the Court on October 8, 2023. The Court received briefing from each party regarding the respective motions, as well as oral argument from counsel for the parties.

After consideration of the parties’ motions, briefs, and oral arguments, I GRANT Starbucks’ Motion to Acknowledge an Automatic Stay and DENY Plaintiffs’ Motion to Compel. I further find as follows:

This action relates to incidents which took place in Anderson County on or about August 1, 2022, and thereafter. Starbucks and Morris previously sought to compel this dispute to arbitration pursuant to the Starbucks Mutual Arbitration Agreement (“Arbitration Agreement”). This Court denied those motions via written order issued on September 1, 2023, as well as Defendants’ respective motions to reconsider the September 1st order.

On September 22, 2023, Starbucks and Morris filed Notices of Appeal indicated that they had appealed this Court's September 1st order. Shortly thereafter, on the same day, Plaintiffs filed a Motion to Compel Starbucks' responses to Plaintiffs' initial discovery requests. On October 5, 2023, Starbucks filed a Motion to Acknowledge the Automatic Stay seeking to stay this case pending the respective appeals. On October 18, 2023, Plaintiffs a Motion to Compel seeking to compel Morris' responses to Plaintiffs' initial discovery requests.

Starbucks requests that this Court stay this action pursuant to Section 16 of the Federal Arbitration Act ("FAA") and the recent United States Supreme Court opinion, *Coinbase, Inc. v. Bielski*, 143 S. Ct. 1915, 1918 (2023), or, alternatively, stay this case pursuant to Rule 241 of the South Carolina Appellate Court Rules ("SCACR"). Plaintiffs contend that state procedural rules govern the stay request, that a stay is not required under those rules, and that the Court should not exercise its discretion to stay the case. Therefore, Plaintiffs seek to compel Starbucks' and Morris' responses to Plaintiffs' discovery requests.

While interpreting Section 16 of the FAA, the Court, in *Coinbase*, stated that where "the question on appeal is whether the case belongs in arbitration or instead in the district court, the entire case is essentially 'involved in the appeal.'" *Coinbase*, 143 S. Ct. at 1919. As a result, the Court held that staying a case, including discovery, is necessary when the arbitrability of the underlying dispute is on appeal. *See Id.* Therefore, under the FAA, once an appeal of an order denying a motion to compel arbitration is initiated, the underlying case, including discovery, is stayed. *Id.*

Likewise, Rule 241(a) of the SCACR also provides that "[a]s a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment,

decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision.” Rule 241(a), SCACR.

Since Starbucks and Morris appealed this Court’s order concerning the application of the Arbitration Agreement for this dispute, an automatic stay was imposed pursuant to Section 16 of the FAA and/or Rule 241(a), SCACR. Moreover, since Defendants’ appeals concern the Arbitration Agreement and its enforceability and application to this dispute, this case and the issues related to it, including discovery, are impacted by that appeal such that they too must be stayed.

Accordingly, I grant Starbucks’ motion and hold that all matters in this case, including discovery, are stayed pending the resolution of the issues on appeal. Based upon this conclusion, I deny Plaintiffs’ motions related to discovery.

IT IS SO ORDERED.

_____, 2023
Anderson, South Carolina

Lawton R. McIntosh
South Carolina Circuit Court Judge



Anderson Common Pleas

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris , defendant, et al

Case Number: 2022CP0402159

Type: Order/Stay

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2023-11-21 18:01:07 page 4 of 4

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Anderson
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP0402159

Skylar Blume et al
PLAINTIFF(S)

Melissa Morris et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Defendant Starbucks motion to stay pending appeal is granted. This case is hereby stayed as to all matters. Plaintiff Blume's motions to compel are denied due to the case being stayed. Attorney for Defendant Starbucks, Mr. Foster, to file a formal order.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11/09/2023 .

Michael P Ellement for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson
Richard P Ruoco for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson
Daniel M Rosenthal for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson
Mary Jo Carlson for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Anderson Common Pleas

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris , defendant, et al

Case Number: 2022CP0402159

Type: Order/Electronic Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2023-11-09 09:11:39 page 3 of 3

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Anderson
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP0402159

Skylar Blume et al
PLAINTIFF(S)

Melissa Morris et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Defendants Starbucks Corporation and Melissa Morris' motions for reconsideration of the courts order denying motion to dismiss, or, in the alternative, compel arbitration, are denied without the necessity of a formal hearing. No formal order is required by the court unless counsel for either party requests one. In the event that a formal order is requested, Plaintiffs counsel is to prepare the formal order.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/15/2023 .

Michael P Ellement for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson
Richard P Ruoco for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson
Daniel M Rosenthal for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson
Mary Jo Carlson for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Anderson Common Pleas

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris , defendant, et al

Case Number: 2022CP0402159

Type: Order/Electronic Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2023-09-15 13:55:10 page 3 of 3

September 1, 2023 Order

Denying Starbucks' Motion to

Compel Arbitration

CA. No. 2022-CP-04-02159

State of South Carolina	)	IN THE COURT OF COMMON PLEAS
	)	
County of Anderson	)	Case No.: 2022-CP-04-02159
Skylar Blume, Virgil Dowis, Rhi Greer,	)	
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, & Aneil Tripathi,	)	
	)	ORDER
Plaintiffs,	)	
v.	)	
	)	
Starbucks Corporation & Melissa Morris,	)	
	)	
Defendants.	)	

This case was brought by Plaintiffs, eight current or former employees of a Starbucks store in Anderson, South Carolina, asserting claims for defamation and abuse of process against Defendants Starbucks Corporation (“Starbucks”) and Melissa Morris (“Morris”) (Starbucks and Morris collectively the “Defendants”). On April 7, 2023, Starbucks filed a motion to dismiss or compel arbitration pursuant to an arbitration agreement between Plaintiffs and Starbucks. Morris joined in this Motion on June 2, 2023. The Court received memoranda in support of the motion from Starbucks Corporation and Morris, a memorandum in opposition from Plaintiffs, and a reply memorandum from Starbucks. The Court also heard oral arguments on June 14, 2023. Based on the parties’ submissions, arguments of counsel, and for the reasons set forth below, Defendants’ motions are **DENIED**.

Defendants have waived the right to compel arbitration. Defendants waited several months to seek to arbitrate Plaintiffs’ claims, and in the meantime have taken advantage of this Court’s processes by filing a motion to dismiss on another ground and a motion to transfer this case to the Business Court. Only after Defendants’ motion to transfer this case to the Business Court was denied did they file the present motion seeking arbitration. This conduct constitutes waiver because

it creates a “reasonable inference . . . that the [party] does not stand upon its right.” *Lawrimore*, 276 S.C. at 118, 276 S.E. 2d at 299 (S.C. 1981) (quoting *Williams v. Philadelphia Life Ins. Co.*, 112 S.C. 436, 447, 100 S.E. 157, 160 (S.C. 1919)). *See also Morgan v. Sundance, Inc.*, 142 S. Ct. 1708 (2022) (holding that courts must apply to arbitration agreements the same test that applies to waiver of other contractual rights or defenses).

Even if Defendants had not waived their right to compel arbitration, the Court would deny their motions because Plaintiffs’ claims are not arbitrable under the agreement. The agreement only covers claims “related” to “employment.” But here, Plaintiffs do not pursue an employment claim, nor do their claims turn on their employment status at Starbucks. As the South Carolina Court of Appeals has held, even the most broadly worded arbitration agreement between an employee and employer does not apply to claims that “do not truly relate to [the employee’s] employment.” *Davis v. ISCO Industries, Inc.*, 434 S.C. 488, 499, 864 S.E.2d 391, 397 (S.C. Ct. App. 2021). Similarly, the South Carolina Supreme Court has held that arbitration agreements do not apply to “wholly unexpected tortious conduct” that a party to the agreement “could not possibly have foreseen” in the course of “normal business dealings.” *Aiken v. World Finance Corp. of S.C.*, 373 S.C. 144, 151, 644 S.E.2d 705, 709 (S.C. 2007). I find that when Plaintiffs started working at Starbucks, they could not have anticipated that the claims asserted in this action would be subject to arbitration.

For the first time in reply, Starbucks claims that a delegation clause in the arbitration agreement requires the Court to allow an arbitrator to decide these issues. The Court disagrees. By raising this argument for the first time on reply, Starbucks waived this argument. *See Bochette v. Bochette*, 300 S.C. 109, 112, 386 S.E. 2d 475, 577 (S.C. Ct. App. 1989) (holding that a litigant “may not use either oral argument or the reply brief as a vehicle to argue issues not argued” in the

initial brief). Even if Starbucks had properly raised this argument, “the issue of waiver of arbitration through litigation is one for the court to decide rather than arbitrators.” *Samuel v. Schumacher Homes of S.C.*, Unpublished Opinion No. 2022-UP-148, 2022 BL99863 (S.C. Ct. App. Mar. 23, 2022).

Moreover, the agreement does not “clear[ly] and unmistakabl[y]” delegate questions of arbitrability to an arbitrator. *Doe v. TCSC, LLC*, 430 S.C. 602, 608, 846 S.E.2d 874, 877 (S.C. Ct. App. 2020). That is because “the arbitration agreement excludes ‘(c) actions to enforce this Agreement, compel arbitration, [or] compel arbitration.’” *Wilson v. Starbucks Corp.*, 385 F. Supp. 3d 557, 561 (E.D. Ky. 2019). As the adjudication of the present motion constitutes a “civil action to compel arbitration,” it is excluded from the arbitration agreement. *Id.* (quotation marks omitted). As such, this Court possesses the authority to determine whether the claims asserted in the Complaint are subject to and governed by the Arbitration Agreement.

Accordingly, Defendants’ motions to dismiss or compel arbitration are **DENIED**.

IT IS SO ORDERED.

R. Lawton McIntosh
Tenth Judicial Circuit

August ____, 2023

Anderson, South Carolina



Anderson Common Pleas

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris , defendant, et al

Case Number: 2022CP0402159

Type: Order/Dismissal

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

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Certificate of Electronic Notification

Recipients

Hannah Stetson - Notification transmitted on 09-01-2023 09:13:21 AM.

Benjamin Hepner - Notification transmitted on 09-01-2023 09:13:21 AM.

William Foster - Notification transmitted on 09-01-2023 09:13:21 AM.

Matthew Ozment - Notification transmitted on 09-01-2023 09:13:21 AM.

Katie Towery - Notification transmitted on 09-01-2023 09:13:21 AM.

Reginald Belcher - Notification transmitted on 09-01-2023 09:13:21 AM.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****

NOTICE OF ELECTRONIC FILING [NEF]

-

A filing has been submitted to the court RE: 2022CP0402159

Official File Stamp: 09-01-2023 09:11:13 AM

Court: CIRCUIT COURT

Common Pleas

Anderson

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris ,
defendant, et al

Document(s) Submitted: Order/Dismissal DENIED Order/Dismissal

Filed by or on behalf of: R. Lawton McIntosh

This notice was automatically generated by the Court's auto-notification system.

-

The following people were served electronically:

Hannah Davis Stetson for Melissa Morris

Reginald Wayne Belcher for Melissa Morris

William Harrell Foster, III for Starbucks
Corporation

Katie Elizabeth Towery for Starbucks Corporation

Benjamin Tradd Hepner for Starbucks
Corporation

Matthew R Ozment for Skylar Blume et al

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

Michael P Ellement for Skylar Blume, Rhi Greer,
Virgil Dowis, Aneil Tripathi, Branden Terrill, Mya
Ourada, Natalie Mann, Jonathan Hudson

Richard P Ruoco for Skylar Blume, Rhi Greer,
Virgil Dowis, Aneil Tripathi, Branden Terrill, Mya
Ourada, Natalie Mann, Jonathan Hudson

Daniel M Rosenthal for Skylar Blume, Rhi Greer,
Virgil Dowis, Aneil Tripathi, Branden Terrill, Mya
Ourada, Natalie Mann, Jonathan Hudson

Mary Jo Carlson for Skylar Blume, Rhi Greer,
Virgil Dowis, Aneil Tripathi, Branden Terrill, Mya
Ourada, Natalie Mann, Jonathan Hudson

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022-CP-04-02159

SKYLAR BLUME, ET AL.
PLAINTIFF(S)

MELISSA MORRIS, ET AL.
DEFENDANT(S)

Submitted by:	Attorney for : ☐ Plaintiff ☐ Defendant
	or
	☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

ORDER INFORMATION

DEFENDANT MELISSA MORRIS' MOTION TO DISMISS OR, IN THE ALTERNATIVE, COMPEL ARBITRATION IS DENIED.

**DEFENDANT STARBUCKS CORPORATION'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, COMPEL ARBITRATION IS DENIED
PLAINTIFF'S COUNSEL SHALL PREPARE A FORMAL ORDER.**

This order ☐ ends ☒ does not end the case.

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

	2155	
Circuit Court Judge	Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)	ATTORNEY(S) FOR THE DEFENDANT(S)
	CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Anderson Common Pleas

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris , defendant, et al

Case Number: 2022CP0402159

Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2023-07-18 10:29:50 page 3 of 3

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON
IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE

CASE NO. 2022- CP-04-02159

SKYLAR BLUME, ET AL.
PLAINTIFF(S)

MELISSA MORRIS, ET AL.
DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCPP; ☐ Rule 41(a), SCRCPP (Vol. Nonsuit); ☐ Rule 43(k), SCRCPP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCPP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

ORDER INFORMATION

THE FORM 4 PREVIOUSLY ENTERED ON FEBRUARY 15, 2023, IS VACATED. DEFENDANT STARBUCKS CORPORATION'S MOTION TO DISMISS AND DEFENDANT MELISSA MORRIS' MOTION TO DISMISS ARE DENIED BECAUSE THE ALLEGATIONS IN PLAINTIFF'S COMPLAINT ARE NOT PREEMPTED BY THE NLRA. NO FORMAL ORDER IS REQUESTED.

This order ☐ ends ☒ does not end the case.

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT**Court Reporter:**

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Anderson Common Pleas

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris , defendant, et al

Case Number: 2022CP0402159

Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2023-04-27 14:53:57 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	
SKYLAR BLUME, VIRGIL DOWIS,	)	Civil Action No. 2022-CP-04-02159
RHI GREER, JONATHAN HUDSON,	)	
NATALIE MANN, MYA OURADA,	)	
BRADEN TERRILL, and ANEIL	)	
TRIPATHI,	)	ORDER DENYING CASE
	)	ASSIGNMENT TO THE BUSINESS
	)	COURT
Plaintiffs,	)	
	)	
vs.	)	
	)	
STARBUCKS CORPORATION and	)	
MELISSA MORRIS,	)	
Defendants.	)	

It is hereby ordered that assignment to the Business Court for Anderson County is **DENIED** because this matter is not the type of action for which the Business Court was created.

AND IT IS SO ORDERED.

[ELECTRONIC SIGNATURE PAGE TO FOLLOW]



Anderson Common Pleas

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris , defendant, et al

Case Number: 2022CP0402159

Type: Order/Case Assignment to Business Court Denied

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134

Electronically signed on 2023-03-15 12:32:28 page 2 of 2

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON
IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE

CASE NO. 2022- CP-04-02159

SKYLAR BLUME, ET AL.
PLAINTIFF(S)

MELISSA MORRIS, ET AL.
DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCPP; ☐ Rule 41(a), SCRCPP (Vol. Nonsuit); ☐ Rule 43(k), SCRCPP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCPP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

ORDER INFORMATION

DEFENDANT STARBUCKS CORPORATION'S MOTION TO DISMISS AND DEFENDANT MELISSA MORRIS' MOTION TO DISMISS ARE DENIED BECAUSE THE ALLEGATIONS IN PLAINTIFF'S COMPLAINT ARE NOT PREEMPTED BY THE NLRA. MATTHEW R. OZMENT, ESQ. TO PREPARE A FORMAL ORDER.

This order ☐ ends ☒ does not end the case.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

ELECTRONICALLY FILED - 2023 Feb 15 4:25 PM - ANDERSON - COMMON PLEAS - CASE#2022CP0402159

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT**Court Reporter:**

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Anderson Common Pleas

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris , defendant, et al

Case Number: 2022CP0402159

Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2023-02-15 16:09:03 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	TENTH JUDICIAL CIRCUIT
	)	
Skylar Blume, Virgil Dowis, Rhi Greer,	)	Civil Action No. 2022-CP-04-02159
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, and Aneil	)	
Tripathi,	)	
	)	
Plaintiffs,	)	ANSWER OF DEFENDANT STARBUCKS
	)	CORPORATION
vs.	)	
	)	
Starbucks Corporation and Melissa	)	
Morris,	)	
	)	
Defendants.	)	
	)	

Defendant Starbucks Corporation (“Starbucks” or “Defendant”), by and through its undersigned counsel, submits its Answer to Plaintiffs’ Complaint and states as follows:

Unless otherwise specifically admitted herein, Defendant generally denies all of Plaintiffs’ allegations contained in the Complaint. Each numbered paragraph below corresponds to the same numbered paragraph of the Complaint.

FOR A FIRST DEFENSE

Subject to and without waiving any of its affirmative and other defenses, Defendant answers the numbered paragraphs of Plaintiffs’ Complaint as follows:

1. Defendant denies the allegations of Paragraph 1.
2. Defendant denies the allegations of Paragraph 2.
3. Defendant denies the allegations of Paragraph 3.
4. Defendant denies the allegations of Paragraph 4.
5. Defendant denies the allegations of Paragraph 5.
6. Defendant denies the allegations of Paragraph 6.

7. The allegations of Paragraph 7 constitute legal conclusions to which no response is required. To the extent a response is deemed required, Defendant admits only that Plaintiffs filed the instant lawsuit alleging claims for defamation and abuse of process. Defendant denies the remaining allegations of Paragraph 7, and further denies any wrongdoing or liability to Plaintiffs in this matter.

PARTIES

8. Defendant admits the allegations of Paragraph 8 upon information and belief.
9. Defendant admits the allegations of Paragraph 9 upon information and belief.
10. Defendant admits the allegations of Paragraph 10 upon information and belief.
11. Defendant admits the allegations of Paragraph 11 upon information and belief.
12. Defendant admits the allegations of Paragraph 12 upon information and belief.
13. Defendant admits the allegations of Paragraph 13 upon information and belief.
14. Defendant admits the allegations of Paragraph 14 upon information and belief.
15. Defendant admits the allegations of Paragraph 15 upon information and belief.
16. Defendant admits the allegations of Paragraph 16.
17. Defendant admits the allegations of Paragraph 17.

JURISDICTION AND VENUE

18. The allegations of Paragraph 18 constitute legal conclusions to which no response is required. To the extent a response is deemed required, Defendant admits only that Starbucks transacts business in Anderson County and that Plaintiffs' Complaint makes reference to events alleged to have occurred in Anderson County. Defendant denies any remaining allegations of Paragraph 18. Defendant further denies that this Court has jurisdiction over this matter and affirmatively states that this Court is not the proper venue for this dispute.

19. The allegations of Paragraph 19 constitute legal conclusions to which no response is required. To the extent a response is deemed required, Defendant admits only that Ms. Morris was employed at Starbucks' Anderson County, South Carolina, location during the relevant time period, and that Plaintiffs' Complaint makes reference to events alleged to have occurred in Anderson County. Defendant denies any remaining allegations of Paragraph 19. Defendant further denies that this Court has jurisdiction over this matter and affirmatively states that this Court is not the proper venue for this dispute.

20. Answering the allegations of Paragraph 20, Defendant admits only that Plaintiffs confronted Ms. Morris on August 1, 2022, surrounded her in a Starbucks store, and presented her with a letter, the terms of which document speak for themselves. Defendant denies any remaining allegations of Paragraph 20 inconsistent with the foregoing.

21. Defendant is presently without knowledge sufficient to admit or deny the allegations of Paragraph 21, and therefore denies the same.

22. Answering the allegations of Paragraph 22, Defendant craves reference to video of the events of August 1, 2022, and denies any allegations which contradict or mischaracterize the same. Defendant denies any remaining allegations of Paragraph 22 inconsistent with the foregoing.

23. Defendant denies the allegations of Paragraph 23.

24. Defendant denies the allegations of Paragraph 24.

25. Defendant denies the allegations of Paragraph 25.

26. Defendant is presently without sufficient knowledge to admit or deny the allegations of Paragraph 26, and therefore denies the same.

27. Answering the allegations of Paragraph 27, Defendant admits only that Ms. Morris contacted the police on or about August 3, 2022. Defendant is presently without knowledge sufficient to admit or deny the remaining allegations of Paragraph 27, and therefore denies the same.

28. The allegations of Paragraph 28 relate to an alleged August 3, 2022, police report, the terms of which document speak for themselves. Defendant craves reference to the alleged report and denies any allegations which contradict or mischaracterize the same. Defendant denies any remaining allegations of Paragraph 28 inconsistent with the foregoing.

29. The allegations of Paragraph 29 relate to an alleged August 3, 2022, police report, the terms of which document speak for themselves. Defendant craves reference to the alleged report and denies any allegations which contradict or mischaracterize the same. Defendant denies any remaining allegations of Paragraph 29 inconsistent with the foregoing.

30. Defendant denies the allegations in Paragraph 30.

31. The allegations of Paragraph 31 relate to an alleged email, the terms of which document speak for themselves. Defendant craves reference to the alleged email and denies any allegations which contradict or mischaracterize the same. Defendant denies any remaining allegations of Paragraph 31 inconsistent with the foregoing.

32. The allegations of Paragraph 32 relate to an alleged email, the terms of which document speak for themselves. Defendant craves reference to the alleged email and denies any allegations which contradict or mischaracterize the same. Defendant denies any remaining allegations of Paragraph 32, and denies making any false statements, including, *inter alia*, any statements made in the correspondence referenced in Paragraph 32.

33. The allegations of Paragraph 33 relate to an alleged email, the terms of which document speak for themselves. Defendant craves reference to the alleged email and denies any allegations which contradict or mischaracterize the same. Defendant denies any remaining allegations of Paragraph 33, and denies making any false statements, including, *inter alia*, any statements made in the correspondence referenced in Paragraph 33.

34. Answering the allegations of Paragraph 34, Defendant admits only that Ms. Morris filed a police report, the terms of which document speak for themselves. Defendant craves reference to the alleged report and denies any allegations which contradict or mischaracterize the same. Defendant denies any remaining allegations of Paragraph 34 inconsistent with the foregoing.

35. Answering the allegations of Paragraph 35, Defendant admits only that, in accordance with Starbucks' policies and procedures, Defendant's representative(s) contacted Plaintiffs to inform them that they had been placed on leave pending an investigation into the events of August 1, 2022, and further, in accordance with Defendant's policies and procedures, Plaintiffs were not allowed to enter a Starbucks location while the investigation was pending. Defendant denies any remaining allegations of Paragraph 35 inconsistent with the foregoing.

36. The allegations of Paragraph 36 relate to an alleged statement, the terms of which document speak for themselves. Defendant craves reference to the alleged statement and denies any allegations which contradict or mischaracterize the same. Defendant denies any remaining allegations of Paragraph 36 inconsistent with the foregoing.

37. The allegations of Paragraph 37 relate to an alleged statement, the terms of which document speak for themselves. Defendant craves reference to the alleged statement and denies any allegations which contradict or mischaracterize the same. Defendant denies any remaining

allegations of Paragraph 37, and denies making any false statements, including, *inter alia*, any statements made in the document referenced in Paragraph 37.

38. Defendant denies the allegations of Paragraph 38.

39. Defendant is presently without knowledge sufficient to admit or deny the allegations of Paragraph 39, and therefore denies the same.

40. Defendant is presently without knowledge sufficient to admit or deny the allegations of Paragraph 40, and therefore denies the same.

41. Defendant is presently without knowledge sufficient to admit or deny the allegations of Paragraph 41, and therefore denies the same.

42. Defendant is presently without knowledge sufficient to admit or deny the allegations of Paragraph 42, and therefore denies the same.

43. Defendant is presently without knowledge sufficient to admit or deny the allegations of Paragraph 43, and therefore denies the same.

44. Defendant is presently without knowledge sufficient to admit or deny the allegations of Paragraph 44, and therefore denies the same.

45. Defendant is presently without knowledge sufficient to admit or deny the allegations of Paragraph 45, and therefore denies the same.

46. Defendant denies the allegations in Paragraph 46.

47. Defendant denies the allegations in Paragraph 47.

48. Defendant denies the allegations in Paragraph 48.

FOR A FIRST CAUSE OF ACTION
(Defamation)

49. Responding to Paragraph 49, Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

- 50. Defendant denies the allegations of Paragraph 50.
- 51. Defendant denies the allegations of Paragraph 51.
- 52. Defendant denies the allegations of Paragraph 52.
- 53. Defendant denies the allegations of Paragraph 53.
- 54. Defendant denies the allegations in Paragraph 54.
- 55. Defendant denies the allegations of Paragraph 55.
- 56. Defendant denies the allegations of Paragraph 56.
- 57. Defendant denies the allegations of Paragraph 57.

FOR A SECOND CAUSE OF ACTION
(Abuse of Process)

58. Responding to Paragraph 58, Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

- 59. Defendant denies the allegations of Paragraph 59.
- 60. Defendant denies the allegations of Paragraph 60.
- 61. Defendant denies the allegations of Paragraph 61.
- 62. Defendant denies the allegations of Paragraph 62.
- 63. Defendant denies the allegations of Paragraph 63.
- 64. Defendant denies the allegations of Paragraph 64.

PRAYER FOR RELIEF

65. Responding to Plaintiffs' prayer for relief, Defendant denies that Plaintiff is entitled to any relief requested therein. Defendant further denies any alleged wrongdoing or unlawful conduct, or any alleged liability to Plaintiffs.

FOR A SECOND DEFENSE

66. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

67. Plaintiffs' claims are preempted by the Labor Management Relations Act ("LMRA"), the Fair Labor Standards Act ("FLSA"), and/or the National Labor Relations Act ("NLRA"). Plaintiffs' Complaint should therefore be dismissed.

FOR A THIRD DEFENSE

68. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

69. This Court lacks subject matter jurisdiction over the claims asserted in Plaintiffs' Complaint, and therefore the Complaint must be dismissed in its entirety.

FOR A FOURTH DEFENSE

70. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

71. Plaintiffs' Complaint should be dismissed for improper venue.

FOR A FIFTH DEFENSE

72. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

73. Plaintiffs' Complaint fails to state any claim upon which relief may be granted against Defendant, and therefore should be dismissed in its entirety.

FOR A SIXTH DEFENSE

74. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

75. Plaintiffs' claims should be dismissed because those claims are subject to and governed by a binding agreement to arbitrate and, as such, this Court lacks jurisdiction over this dispute and/or is the improper venue for this action.

FOR A SEVENTH DEFENSE

76. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

77. Plaintiffs' claims should be dismissed for failure to exhaust administrative remedies and/or under the doctrine of collateral estoppel.

FOR AN EIGHTH DEFENSE

78. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

79. Any award of damages should be barred or limited to the extent that the relief demanded by Plaintiffs is improper, barred in whole or in part by the doctrine of after-acquired evidence, is inappropriate, exceeds the scope of permissible damages and remedies, and/or otherwise is not available under the laws upon which their claims rest.

FOR A NINTH DEFENSE

80. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

81. Any award of damages to Plaintiffs must be offset by sums received by Plaintiffs from Defendant, by amounts Plaintiffs may receive from third parties, or by amounts owed by Plaintiffs to Defendant.

FOR A TENTH DEFENSE

82. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

83. Plaintiffs have failed to specifically plead their entitlement to exemplary, liquidated or punitive damages in the Complaint, and thus, should be barred from seeking punitive damages in this case. Defendant would further show there is no basis to support an award of such damages in this case. Accordingly, Plaintiffs' prayer for exemplary, liquidated and/or punitive damages should be stricken.

FOR AN ELEVENTH DEFENSE

84. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

85. Defendant is entitled to a credit and/or set-off for any compensation paid to Plaintiffs to which they were not otherwise entitled.

FOR A TWELFTH DEFENSE

86. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

87. Plaintiffs' claims may be barred in whole or in part by the doctrines of waiver, release, accord, and satisfaction.

FOR A THIRTEENTH DEFENSE

88. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

89. Plaintiffs' claims may be barred in whole or in part by the doctrine of estoppel by reason of their own conduct and actions, including acts of commission and omission.

FOR A FOURTEENTH DEFENSE

90. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

91. Plaintiffs' claims lack merit because any employment actions allegedly taken by Defendant with respect to Plaintiffs were made in good faith and based upon legitimate business reasons completely unrelated to any impermissible factor and were made without malice and not in violation of any statute.

FOR A FIFTEENTH DEFENSE

92. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

93. To the extent Defendant is found to have violated any statute, the fact of which is expressly denied, Plaintiffs are not entitled to recover liquidated damages, punitive damages or attorneys' fees because Defendant did not commit any alleged willful, oppressive, fraudulent or malicious acts, or act with reckless indifference to Plaintiffs' rights.

FOR A SIXTEENTH DEFENSE

94. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

95. Some or all of Plaintiffs' claims may be barred by their breaches of their legal and/or contractual obligations to Defendant.

FOR A SEVENTEENTH DEFENSE

96. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

97. Some or all of Plaintiffs' claims may be barred by their breaches of the duty of loyalty or fiduciary duty and by the doctrine of unclean hands.

FOR AN EIGHTEENTH DEFENSE

98. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

99. Some or all of Plaintiffs' claims are barred by the doctrine of at-will employment, given that Plaintiffs are at-will employees and the terms of their employment are subject to change at any time.

FOR A NINETEENTH DEFENSE

100. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

101. Defendant plead the defenses of truth, self-publication and privilege, both qualified and absolute, as complete defenses to Plaintiffs' defamation claim.

FOR A TWENTIETH DEFENSE

102. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

103. Defendant further pleads that none of Defendant's actions or the actions of its officers, employees, or agents concerning Plaintiffs were based upon any ulterior purpose for its actions or meant to serve any such purpose.

FOR A TWENTY-FIRST DEFENSE

104. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

105. Defendant further pleads that its use of process or the use of process by its officers, employees, or agents use of process was not unauthorized, nor solely for gaining a collateral advantage against Plaintiffs.

FOR A TWENTY-SECOND DEFENSE

106. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

107. To the extent certain supervisors, managers, employees and/or agents of Defendant may have engaged in inappropriate conduct or unlawful action, the fact of which is expressly denied, such conduct is outside the course and scope of their employment, authority and/or agency, was in direct contravention of Defendant's policies, and occurred without Defendant's consent or ratification. Accordingly, Defendant cannot be vicariously liable for such actions or conduct.

FOR A TWENTY-THIRD DEFENSE

108. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

109. To the extent Defendant discovers any additional facts which would have warranted any adverse action against Plaintiffs, Plaintiffs' claims and/or recovery may be barred in whole or in part because of after-acquired evidence of wrongful conduct.

FOR TWENTY-FOURTH DEFENSE

110. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

111. To the extent Plaintiffs seeks punitive damages, Defendant affirmatively pleads the following in regard to punitive damages:

- a) An award of punitive damages in this civil action would amount to a deprivation of property without due process of law in violation of the Fifth

and Fourteenth Amendments to the United States Constitution and the corresponding provisions of the South Carolina Constitution;

- b) The criteria used for determining whether and in what amount punitive damages may be awarded are impermissible, vague, imprecise, and inconsistent and, therefore, violate the due process provisions of the Fifth and Fourteenth Amendments to the United States Constitution and the corresponding provisions of the South Carolina Constitution;
- c) Defendant specifically incorporates by reference any and all standards or limitations regarding the determination and/or enforceability of punitive damage awards which arose in the decisions of *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996), *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001), and *State Farm Mutual Automobile Ins. Co. v. Campbell*, 538 U.S. 408 (2003); and
- d) Defendant asserts the punitive damages caps articulated in S.C. Code Ann. § 15-32-530 as an affirmative defense.

FOR A TWENTY-FIFTH DEFENSE

112. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

113. Defendant at all times acted in good faith and without malice and further did not impugn or damage Plaintiffs' reputation in any respect.

FOR A TWENTY-SIXTH DEFENSE

114. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

115. To the extent certain supervisors, managers and/or agents of another employer or entity beyond the control of Defendant may have engaged in inappropriate conduct or unlawful action, the fact of which is expressly denied, Defendant cannot be held liable for such actions or conduct.

FOR A TWENTY-SEVENTH DEFENSE

116. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

117. The defamation claim alleged by Plaintiffs is *per quod*, thus requiring Plaintiffs to plead and prove common law malice and special damages.

FOR A TWENTY-EIGHTH DEFENSE

118. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

119. Plaintiffs have failed to reasonably mitigate their claimed damages, their entitlement to which is expressly denied.

FOR A TWENTY-NINTH DEFENSE

120. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

121. Defendant pleads the defense of neutral reportage.

FOR A THIRTIETH DEFENSE

122. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

123. Defendant's alleged use of process did not constitute a perversion of a legal procedure for a purpose not intended by the procedure.

FOR A THIRTY-FIRST DEFENSE

124. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

125. Defendant did not act willfully in its alleged use of process against Plaintiffs.

FOR A THIRTY-SECOND DEFENSE

126. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

127. Any act or omission from which Plaintiffs claim damage was the intervening (or otherwise) act of an independent third-party over whom Defendant had no control. Therefore, Plaintiffs cannot recover against Defendant.

FOR A THIRTY-THIRD DEFENSE

128. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

129. To the extent Defendant made or issued any statements about Plaintiffs, any such statements were made in good faith and in the absence of malice and, therefore, were not defamatory or actionable.

FOR A THIRTY-FOURTH DEFENSE

130. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

131. Any injuries suffered by Plaintiffs were due to and proximately caused by Plaintiffs' own voluntary actions or inactions taken with proper knowledge of the risks associated therewith. Therefore, Defendants plead Plaintiffs' assumption of the risks and negligence as a bar to this action.

FOR A THIRTY-FIFTH DEFENSE

132. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

133. Plaintiffs are not entitled to recover punitive damages because Defendant's alleged actions were not unlawful, malicious, or in reckless disregard of Plaintiffs' purported rights, as

Defendant acted in good faith and complied with all applicable obligations under applicable federal and state laws.

FOR A THIRTY-SIXTH DEFENSE

134. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

135. Defendant opinions regarding Plaintiffs are not actionable. Any alleged defamatory statements are protected under the First Amendment and are not actionable because they were opinions, ideas, and/or rhetorical hyperbole.

FOR A THIRTY-SEVENTH DEFENSE

136. Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

137. Some or all of Plaintiffs' claims or claimed damages may be barred by the South Carolina Workers' Compensation Act.

FOR A THIRTY-EIGHTH DEFENSE

138. Defendant has not had an opportunity to conduct a full and sufficient investigation or to engage in adequate discovery touching on the circumstances of Plaintiffs' allegations. Defendant intends to act expediently to inform themselves as to the pertinent facts and prevailing circumstances surrounding any claimed damages and hereby give notice of their intent to assert any affirmative defenses or allegations of fact that this information-gathering process may indicate are supported by law.

WHEREFORE, having responded to the specific allegations contained in the Complaint and having stated their affirmative and additional defenses, Defendant respectfully pray as follows:

- (a) that the Court render judgment for Defendant and against Plaintiffs;
- (b) that the Court dismiss Plaintiffs' Complaint in its entirety with prejudice;
- (c) that the Court assess costs and attorneys' fees against Plaintiffs; and
- (d) that the Court award Defendant such other and further relief as it deems just and appropriate.

Dated: December 23, 2022

/s/ William H. Foster

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Pending Motion for Admission Pro Hac Vice

*Attorneys for Defendant Starbucks
Corporation*

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	TENTH JUDICIAL CIRCUIT
	)	
Skylar Blume, Virgil Dowis, Rhi Greer,	)	Civil Action No. 2022-CP-04-02159
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, and Aneil	)	
Tripathi,	)	
	)	
Plaintiffs,	)	DEFENDANT MELISSA MORRIS'
	)	ANSWER TO PLAINTIFFS' COMPLAINT
vs.	)	
	)	
Starbucks Corporation and Melissa	)	
Morris,	)	
	)	
Defendants.	)	
	)	

Defendant Melissa Morris ("Morris" or "Defendant"), by and through her undersigned counsel, submits her Answer to Plaintiffs' Complaint and states as follows:

Unless otherwise specifically admitted herein, Defendant generally denies all of Plaintiffs' allegations contained in the Complaint. Each numbered paragraph below corresponds to the same numbered paragraph of the Complaint.

FOR A FIRST DEFENSE

Subject to and without waiving any of its affirmative and other defenses, Defendant answers the numbered paragraphs of Plaintiffs' Complaint as follows:

1. Defendant denies the allegations of Paragraph 1.
2. Defendant denies the allegations of Paragraph 2.
3. Defendant denies the allegations of Paragraph 3.
4. Defendant denies the allegations of Paragraphs 4 and 5 to the extent they allege that

Defendant provided any false report to the policy; otherwise, Defendant is without sufficient

knowledge or information to admit or deny the allegations of Paragraphs 4 and 5, and therefore denies the same.

5. Defendant denies the allegations of Paragraph 6.

6. The allegations of Paragraph 7 constitute legal conclusions to which no response is required. To the extent a response is required, Defendant admits only that Plaintiffs filed a lawsuit alleging claims for defamation and abuse of process. Defendant denies any alleged wrongdoing or unlawful conduct or any alleged liability to Plaintiffs in this matter.

7. Defendant is without sufficient knowledge or information to admit or deny the allegations of Paragraphs 8, 9, 10, 11, 12, 13, 14, and 15 and therefore denies the same.

8. Defendant admits the allegations of Paragraph 16 upon information and belief.

9. Defendant admits the allegations of Paragraph 17.

10. As to the allegations of Paragraphs 18 and 19, Defendant denies that this Court has jurisdiction over this matter and denies that this is the proper venue for this dispute.

11. As to the allegations in Paragraph 20, Defendant admits only that Plaintiffs confronted Defendant on August 1, 2022, surrounded her in a Starbucks store, and collectively demanded changes to the terms and conditions of their employment with Starbucks. Defendant denies the remaining allegations in Paragraph 20.

12. As to the allegations in Paragraph 21, Defendant admits only so much of the allegations in Paragraph 21 in that Defendant Morris made a telephone call to a Starbucks District Manager on August 1, 2022. Otherwise, the allegations of Paragraph 21 are denied.

13. As to the allegations in Paragraph 22, Defendant admits only so much of the allegations in Paragraph 22 in that Defendant attempted to exit the store and Defendant and another

employee made physical contact at some point. Otherwise, the allegations of Paragraph 22 are denied.

14. As to the allegations in Paragraph 23, Defendant admits only so much of the allegations in Paragraph 23 in that employees followed Defendant as she attempted to exit the store. Otherwise, the allegations of Paragraph 23 are denied.

15. As to the allegations in Paragraph 24, Defendant admits only so much of the allegations in Paragraph 24 in that she remained on her cell phone while in the store. Otherwise, the allegations of Paragraph 24 are denied.

16. Defendant denies the allegations of Paragraphs 25 and 26.

17. As to the allegations in Paragraph 27, Defendant admits only so much of the allegations in Paragraph 27 in that she contacted the Anderson County Sherriff's Office regarding the August 1, 2022 events at the store. Otherwise, the allegations of Paragraph 27 are denied.

18. As to the allegations in Paragraph 28, Defendant craves reference to the documents referenced and/or relied upon therein, the terms of which speak for themselves, and denies any allegations which contradict the same.

19. As to the allegations in Paragraph 29, Defendant craves reference to the documents referenced and/or relied upon therein, the terms of which speak for themselves, and denies any allegations which contradict the same.

20. Defendant denies the allegations in Paragraph 30.

21. Defendant is without sufficient knowledge or information to admit or deny the allegations of Paragraphs 31, 32, and 33 and therefore denies the same.

22. As to Paragraph 34, Defendant admits only so much of the allegations in Paragraph 34 in that she contacted the Anderson County Sherriff's Office regarding the August 1, 2022 events at the store. Otherwise, Paragraph 34 is denied.

23. Defendant is without sufficient knowledge or information to admit or deny the allegations of Paragraphs 35 and therefore denies the same.

24. As to the allegations in Paragraph 36, Defendant craves reference to the documents referenced and/or relied upon therein, the terms of which speak for themselves, and denies any allegations which contradict the same.

25. As to the allegations in Paragraph 37, Defendant craves reference to the documents referenced and/or relied upon therein, the terms of which speak for themselves, and denies any allegations which contradict the same. Defendant denies making any false statements.

26. Defendant denies the allegations in Paragraph 38.

27. Defendant is without sufficient knowledge or information to admit or deny the allegations of Paragraph 39, and therefore denies the same.

28. Defendant is without sufficient knowledge or information to admit or deny the allegations of Paragraph 40, and therefore denies the same.

29. Defendant is without sufficient knowledge or information to admit or deny the allegations of Paragraph 41, and therefore denies the same.

30. Defendant is without sufficient knowledge or information to admit or deny the allegations of Paragraph 42, and therefore denies the same.

31. As to Paragraph 43, Defendant admits only so much of the allegations in Paragraph 34 in that she contacted the Anderson County Sherriff's Office regarding the August 1, 2022 events at the store. Otherwise, Paragraph 43 is denied.

32. Defendant is without sufficient knowledge or information to admit or deny the allegations of Paragraph 44, and therefore denies the same.

33. Defendant is without sufficient knowledge or information to admit or deny the allegations of Paragraph 45, and therefore denies the same.

34. Defendant denies the allegations in Paragraphs 46, 47, and 48.

35. Responding to Paragraph 49, Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

36. Defendant denies the allegations in Paragraphs 50, 51, 52, 53, 54, 55, 56, and 57.

37. Responding to Paragraph 58, Defendant restates and reasserts each and every response provided above as if set forth herein verbatim.

38. Defendant denies the allegations in Paragraphs 59, 60, 61, 62, 63, and 64.

39. Defendant denies the WHEREFORE Paragraph and denies that Plaintiffs are entitled to any of the relief requested in the Prayer for Relief.

FOR A SECOND DEFENSE

40. The Complaint and the cause of action contained therein fail to state a cause of action upon which relief can be granted under Rule 12(b)(6) of the South Carolina Rules of Civil Procedure. Further, the Court lacks venue and subject matter jurisdiction over this lawsuit, which should be dismissed with prejudice under Rule 12(b)(1) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE

41. If Plaintiffs incurred damages, such damages are the result of one or more intervening or superseding causes for which Defendant is not responsible.

FOR A FOURTH DEFENSE

42. Any damages sustained by Plaintiffs as alleged in the Complaint were due to and caused by the sole acts of Plaintiffs and such sole acts were the proximate cause of the alleged damages.

FOR A FIFTH DEFENSE

43. Defendant never made or published any false statements about Plaintiffs to any third-party. Defendant pleads truth as an absolute defense to the Plaintiffs' defamation claims.

FOR A SIXTH DEFENSE

44. Defendant did not publish any defamatory statement regarding Plaintiffs.

FOR A SEVENTH DEFENSE

45. To the extent Defendant made or published any statements about Plaintiffs, any and all statements were based upon reasonable grounds and beliefs, were done or uttered in good faith, were sufficiently limited in scope and nature, and were made only to persons sharing an appropriate common interest, by reason of which any such statement were absolutely and/or qualifiedly privileged.

FOR AN EIGHTH DEFENSE

46. To the extent Defendant made or issued any statements about Plaintiffs, any such statements were made in good faith and in the absence of malice and, therefore, were not defamatory or actionable.

FOR A NINTH DEFENSE

47. Defendant's statements, if any, about Plaintiffs were not defamatory, slanderous or libelous. Further any and all alleged statements made by Defendant about Plaintiffs were made in

good faith and in furtherance of Starbucks Corporation's legitimate business and/or lawful purposes and are thus not actionable as they were made pursuant to an intra-corporate privilege.

FOR A TENTH DEFENSE

48. Defendant pleads self-publication by Plaintiffs, which bars the defamation claim.

FOR AN ELEVENTH DEFENSE

49. If Plaintiffs suffered any damages, which Defendant expressly denies, Plaintiffs failed to mitigate, avoid, and reduce said damages.

FOR A TWELFTH DEFENSE

50. Plaintiffs are not entitled to recover punitive damages because Defendant's alleged actions were not willful, wanton, reckless, intentional, grossly negligent, extreme, outrageous, or without justification.

FOR A THIRTEENTH DEFENSE

51. Qualified immunity and/or absolute immunity protect(s) and shield(s) Defendant from liability on Plaintiffs' defamation claim.

FOR A FOURTEENTH DEFENSE

52. At all times, Defendant acted within the course and scope of her employment, authority, and official duties with Starbucks Corporation, thereby shielding her from liability.

FOR A FIFTEENTH DEFENSE

53. The Labor Management Relations Act, the Fair Labor Standards Act, and/or the National Labor Relations Act preempt some or all of Plaintiffs' claims.

FOR A SIXTEENTH DEFENSE

54. The Court should reduce or quash Plaintiffs' alleged damages, if any, to the extent that Plaintiffs failed or refused to mitigate their damages, if any, and/or to the extent that they have

suffered no damages.

FOR A SEVENTEENTH DEFENSE

55. Plaintiffs are not entitled to recover punitive damages because Defendant's alleged actions were not unlawful, malicious, or in reckless disregard of Plaintiffs' purported rights, as Defendant acted in good faith and complied with all applicable obligations under applicable federal and state laws.

FOR AN EIGHTEENTH DEFENSE

56. Defendant's alleged use of process was legal, reasonable, proper, authorized, and not used to gain a collateral advantage against Plaintiffs.

FOR A NINETEENTH DEFENSE

57. Defendant's opinions regarding Plaintiffs are not actionable. Any alleged defamatory statements are protected under the First Amendment and are not actionable because they were opinions, ideas, and/or rhetorical hyperbole.

FOR A TWENTIETH DEFENSE

58. Defendant's statements, if any, regarding Plaintiffs and/or Plaintiffs' actions were privileged, as they constituted fair comment on matters of public concern.

FOR A TWENTY-FIRST DEFENSE

59. Defendant's statements, if any, regarding Plaintiffs and/or Plaintiffs' actions were privileged, as they constituted communication between parties and/or entities with a common business interest.

FOR A TWENTY-SECOND DEFENSE

60. Defendant's statements, if any, regarding Plaintiffs and/or Plaintiffs' actions constituted a statement on a matter of public concern or controversy, and Plaintiffs must prove both the falsity of the statements and that they suffered actual injury to recover any damages.

FOR A TWENTY-THIRD DEFENSE

61. Plaintiffs must (and cannot) prove common law malice and special damages to recover on their defamation claims.

FOR A TWENTY-FOURTH DEFENSE

62. Plaintiffs must (and cannot) prove actual malice to recover punitive damages. Defendant further craves application of the South Carolina Contribution Among Tortfeasors Act, South Carolina Code Section 15-38-10, *et seq.*, and submits that the damages for which Plaintiffs seek recovery must be limited to the percentage of fault, if any, attributable to the conduct of Defendant. In addition, Plaintiffs' recovery in this matter, if any, is or may be barred or limited by the Economic Loss Doctrine as it exists under South Carolina law.

FOR A TWENTY-FIFTH DEFENSE

63. Defendant's statements or communications concerning the Plaintiffs were not defamatory or actionable.

FOR A TWENTY-SIXTH DEFENSE

64. The defamation claim alleged by Plaintiffs is *per quod*, thus requiring Plaintiffs to plead and prove common law malice and special damages.

FOR A TWENTY-SEVENTH DEFENSE

65. Defendant at all times acted in good faith and without malice and further did not impugn or damage Plaintiffs' reputation in any respect.

FOR A TWENTY-EIGHTH DEFENSE

66. Defendant reserves the right to amend or assert additional affirmative defenses as facts are developed in the course of additional investigation and discovery.

FOR A TWENTY-NINTH DEFENSE

67. Defendant asserts and is entitled to all privileges, protections, immunities, and limitations on liability provided for in the common law and in the South Carolina Code, including but not limited to the statutory and common law business judgment rule. Defendant further pleads applicability of The Economic Development, Citizens and Small Business Protection Act of 2005, which amended South Carolina Code §§ 15-38-15 [joint and several liability], 15-7-30 [venue], 15-7-100 [venue], 36-2-803(B) [jurisdiction], and other pertinent statutory sections, and invokes the remedies and procedures provided therein, if any, are or become applicable in this lawsuit.

FOR A THIRTIETH DEFENSE

68. Defendant pleads the limitations regarding the determination and/or enforceability of punitive damages awards as set forth in *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996), *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001), and *State Farm Mutual Automobile Ins. Co. v. Campbell*, 538 U.S. 408 (2003).

FOR A THIRTY-FIRST DEFENSE

69. The after-acquired evidence doctrine limits or completely bars Plaintiffs' claims, to the extent that Defendant discovers evidence, during this lawsuit, which would have caused the Starbucks Corporation to avoid hiring Plaintiffs or to terminate their employment based on the after-acquired evidence.

FOR A THIRTY-SECOND DEFENSE

70. Defendant pleads the statutes of limitation to the extent that Plaintiffs failed to timely file one or more claims or causes of action.

FOR A THIRTY-THIRD DEFENSE

71. Plaintiffs are barred from relief because they have unclean hands and/or breached the duty of loyalty that they owed Starbucks Corporation by, for example, engaging in misconduct such as failing and/or refusing to follow the Company's instructions, rules, policies, practices, procedures, and/or unlawfully conspired to harm Defendant and/or her employment and/or economic interests. Defendant further pleads application of the illegality doctrine, which bars Plaintiffs from relief.

FOR A THIRTY-FOURTH DEFENSE

72. Plaintiffs' alleged damages are speculative, uncertain, and not recoverable, and they are not entitled to recover any attorneys' fees, as a matter of law.

FOR A THIRTY-FIFTH DEFENSE

73. Doctrines of federal preemption, estoppel, waiver, release, accord, and satisfaction bar Plaintiffs' claims.

FOR A THIRTY-SIXTH DEFENSE

74. Any award of punitive damages would violate the constitutional safeguards provided by the Due Process Clause of the Fourteenth Amendment of the United States Constitution and under the Due Process Clause of Article I, Section 3 of the South Carolina Constitution because the determination of punitive damages does not bear any reasonable relationship to the amount of actual damages, if any, suffered by or awarded.

FOR A THIRTY-SEVENTH DEFENSE

75. Defendant pleads the recovery limits for punitive damages, pursuant to the specific limits set forth in South Carolina Code Section 15-32-530, and any other limitation on punitive damages allowed by applicable law.

FOR A THIRTY-EIGHTH DEFENSE

76. Starbucks Corporation employed Plaintiffs on an at-will basis.

FOR A THIRTY-NINTH DEFENSE

77. Plaintiffs are not entitled to a jury trial on equitable issues, including but not limited to the recovery of back pay and front pay.

FOR A FORTIETH DEFENSE

78. Defendant pleads the defense of neutral reportage.

FOR A FORTY-FIRST DEFENSE

79. Defendant's alleged use of process did not constitute a perversion of a legal procedure for a purpose not intended by the procedure.

FOR A FORTY-SECOND DEFENSE

80. Defendant had no ulterior purpose in her alleged use of process against Plaintiffs.

FOR A FORTY-THIRD DEFENSE

81. Defendant did not act willfully in her alleged use of process against Plaintiffs.

FOR A FORTY-FOURTH DEFENSE

82. Defendant expressly seeks to preserve and not waive any and all affirmative defenses available to her pursuant to federal and/or state statutes, regulations, common law, rules of procedure, rules of evidence, and/or any other binding authority that Defendant might rely upon in defending this lawsuit. Defendant reserves the right to assert all other defenses available to her

under law or equity at the time of trial and further reserves the right to amend this Answer to include additional defenses that discovery may reveal to be appropriate and/or applicable.

TURNER PADGET GRAHAM & LANEY P.A.

s/RW Belcher

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ATTORNEYS FOR DEFENDANT

December 16, 2022

State of South Carolina) IN THE COURT OF COMMON PLEAS
)
 County of Anderson) Case No.:

 Skylar Blume, Virgil Dowis, Rhi Greer,
 Jonathan Hudson, Natalie Mann, Mya
 Ourada, Braden Terrill, & Aneil Tripathi,

Plaintiffs,

v.

Starbucks Corporation & Melissa Morris,

Defendants.

SUMMONS

TO MELISSA MORRIS:

You are hereby summoned and required to answer the claims in this action, a copy of which is attached hereto and herewith served upon you, and to serve a copy of your answer to same upon the subscribed at 100 Williams Street, Greenville, SC 29601 within thirty (30) days after the service of same, exclusive of the day of such service. If you fail to answer same within the thirty (30) day period, Plaintiff will apply to the Court for the relief demanded therein and judgment will be taken against you by default.

GROVE OZMENT LLC

s/ Matthew R. Ozment

Matthew R. Ozment (SC Bar 80072)

Email: Matt@go-lawyers.com

100 Williams Street

Greenville, South Carolina 29601

Tel: (864) 516-2222

October 17, 2022

State of South Carolina) IN THE COURT OF COMMON PLEAS
)
 County of Anderson) Case No.:

Skylar Blume, Virgil Dowis, Rhi Greer,
 Jonathan Hudson, Natalie Mann, Mya
 Ourada, Braden Terrill, & Aneil Tripathi,

Plaintiffs,

v.

Starbucks Corporation & Melissa Morris,

Defendants.

SUMMONS

TO STARBUCKS CORPORATION:

You are hereby summoned and required to answer the claims in this action, a copy of which is attached hereto and herewith served upon you, and to serve a copy of your answer to same upon the subscribed at 100 Williams Street, Greenville, SC 29601 within thirty (30) days after the service of same, exclusive of the day of such service. If you fail to answer same within the thirty (30) day period, Plaintiff will apply to the Court for the relief demanded therein and judgment will be taken against you by default.

GROVE OZMENT LLC

s/ Matthew R. Ozment

Matthew R. Ozment (SC Bar 80072)

Email: Matt@go-lawyers.com

100 Williams Street

Greenville, South Carolina 29601

Tel: (864) 516-2222

October 17, 2022

State of South Carolina	)	IN THE COURT OF COMMON PLEAS
	)	
County of Anderson	)	Case No.:
Skylar Blume, Virgil Dowis, Rhi Greer,	)	
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, & Aneil Tripathi,	)	
	)	Complaint
Plaintiffs,	)	
v.	)	
	)	
Starbucks Corporation & Melissa Morris,	)	
	)	
Defendants.	)	

1. Plaintiffs file this case in response to the decision of Starbucks Corporation to improperly weaponize the legal process against them, its own employees, by falsely accusing them of crimes and seeking to have them arrested.

2. On August 3, 2022, a Starbucks store manager—in apparent coordination with Starbucks upper management and its counsel—falsely reported to the police that the plaintiff workers had assaulted and kidnapped the manager two days earlier.

3. Starbucks then orchestrated the dissemination of this false report by issuing a nationwide statement insinuating that the plaintiffs had engaged in criminal activity. It further used the false report to suspend the workers and ban them from entering any Starbucks store, anywhere in the country, even as a customer. Starbucks took these actions without bothering to interview the plaintiffs. Indeed, it recklessly ignored a publicly available video that discredited the store manager's account of events.

4. As Starbucks had to know and expect, the police took the store manager's false report seriously. It interviewed many of the workers in the workplace and in their homes over a period of weeks, causing the plaintiffs significant distress.

5. Nearly a month and a half later, the Anderson Sheriff's Office publicly confirmed what the workers already knew: the criminal accusation was a lie. The Sheriff's Office told a reporter:

After talking with all the employees and seeing the TikTok video that an employee posted from the event, **none of the allegations were true...** The employees did not stop her from leaving and did not put their hands on her, which is what the boss reported had happened. **She is the one who initiated any kind of contact** when she pushed past one of the employees as she was walking out of the door.

6. Yet, neither Starbucks nor the store manager has retracted their false statements.

7. Defendants defamed the workers and abused legal process. Plaintiffs bring this suit to seek redress for the Defendants' unlawful conduct.

PARTIES

8. Plaintiff Skylar Blume is a resident of Anderson, South Carolina.

9. Plaintiff Virgil Dowis is a resident of Anderson, South Carolina.

10. Plaintiff Rhi Greer is a resident of Anderson, South Carolina.

11. Plaintiff Jon Hudson is a resident of Pendleton, South Carolina.

12. Plaintiff Natalie Mann is a resident of Central, South Carolina.

13. Plaintiff Mya Ourada is a resident of Fairplay, South Carolina.

14. Plaintiff Braden Terrill is a resident of Pendleton, South Carolina.

15. Plaintiff Aneil Tripathi is a resident of Clemson, South Carolina.

16. Defendant Starbucks Corporation ("Starbucks") is a Washington corporation with headquarters in Seattle, Washington. It is engaged in the retail operation of restaurants throughout

the United States, including the restaurant at 3556 Clemson Blvd, Anderson, SC 29621 (“Anderson Starbucks”).

17. Defendant Melissa Morris is a resident of South Carolina.

JURISDICTION & VENUE

18. This Court has personal jurisdiction over Defendant Starbucks because Starbucks regularly transacts business within Anderson County, South Carolina, and the events giving rise to this Complaint substantially occurred within Anderson County, South Carolina.

19. This Court has personal jurisdiction over Defendant Morris because Morris was employed at the Anderson Starbucks during the relevant time period, which is located within Anderson County, South Carolina, and the events giving rise to this Complaint substantially occurred within Anderson County, South Carolina.

FACTUAL ALLEGATIONS

20. On Monday August 1, 2022, at approximately 11 a.m., Anderson Starbucks employees, including plaintiffs, peacefully approached the Store Manager, Defendant Melissa Morris, and presented Morris with a letter in which they asked for a wage increase, among other requests relating to their terms and conditions of employment.

21. After receiving the letter from the employees, Morris called someone on a cell phone. From Morris’s statements, Morris had apparently called a Starbucks District Manager, a higher-level manager within Starbucks.

22. Morris then got up from the chair where she had been sitting and began to walk out of the restaurant. As shown by video of the event, the employees remained stationary and made no attempt to block Morris’s exit. As Morris was walking out, Morris made physical contact with

employee Jon Hudson, who was stationary at the time. Morris then walked toward the exit of the store.

23. The employees followed Morris toward the exit in a peaceful and non-violent manner. They made no attempt to block the exit, and no employee physically touched her. Rather, they verbally repeated their request for a wage increase.

24. Morris choose to remain inside the store and on a cell phone as the employees repeated their request.

25. Morris then falsely stated over the phone to the District Manager that the employees were refusing to let Morris exit the store. At this point, the closest employee was at least five feet away from Morris, and no one was preventing Morris from leaving the building.

26. Morris thereafter asked the employees if Morris could leave. The employees stated “Yes.”

The false report to the police

27. On approximately August 3, 2022, Morris called the police to report that the workers had engaged in violent and illegal activity.

28. According to an August 3 police report, Morris told police that the employees including the Plaintiffs “would not let her leave until they got a raise. She stated that one employee also assaulted her.”

29. The report lists offenses of “Assault / Assault & Battery 3rd degree” and “Kidnapping.”

30. Morris’s statement to police was false—no employee blocked the exit, and no employee assaulted Morris.

The Starbucks response

31. On August 1, the same day as the incident, and two days prior to Morris's police report, an attorney for Starbucks Corporation, Kevin Kraham, sent an email about the incident to another attorney, Michael Schoenfeld. Schoenfeld is an attorney representing Workers United, a labor union certified to represent workers at the Anderson Starbucks location.

32. In the email, the Starbucks attorney falsely asserted that Plaintiff Aneil Tripathi had engaged in "abusive, belligerent, and menacing conduct."

33. The Starbucks attorney further claimed, falsely, that Tripathi "would not permit the Store Manager to move about the store" and "blocked her from leaving" the store with his body.

34. Two days after the attorney's false allegations, Morris filed the police report as set forth above.

35. Two days after the police report, August 6, a Starbucks representative called each of the Plaintiffs and told them that they would be placed on leave from their job at Starbucks as a result of the August 1 incident. The representative also told them that they were banned from all Starbucks locations, including as customers.

36. On August 8, Starbucks published a statement that read, in relevant part, as follows: "On Monday, August 1, our store manager at I-85 & Clemson Blvd. felt threatened and unsafe as a result of conduct by 11 store partners.... Consistent with our longstanding policy, we opened an investigation and suspended with pay the partners involved in the incident. Following the incident, the store manager filed a report with law enforcement, who has directed Starbucks to refrain from engaging with the 11 partners until their investigation is complete... [N]o one . . . is exempt from

the standards we have always held—that everyone in our stores can expect to be treated with dignity and respect and work in a warm, welcoming, inclusive environment.”

37. The August 8 statement falsely stated that the Plaintiffs engaged in conduct that threatened Defendant Morris and falsely insinuated that Plaintiffs had engaged in criminal misconduct.

38. Given the coordinated response to the incident and involvement of its corporate attorneys, it is apparent that Morris and Starbucks upper management worked hand in hand to submit the false police and make other false statements about plaintiffs.

Police investigation and warrant request

39. Following Morris’s false report, the police investigated the incident.

40. On August 4, two officers came to the store and interviewed several individuals, including plaintiffs Blume, Terrill, Tripathi, and Mann.

41. Over the following weeks, the police continued to interview plaintiffs, including at their homes. For example, as late as September 8, 2022 (over a month since the initial false criminal complaint), plaintiff Virgil Dowis and his co-worker Charles Thrasher were each visited by a detective investigating the assault and kidnapping complaint. They were asked to identify individuals seen in the TikTok video of the incident.

42. The police informed many of the plaintiffs that they were being investigated for assault and kidnapping based on Morris’s report.

43. At the request of the store manager, the police sought a warrant for the arrest of one or more of the Plaintiffs. The magistrate judge denied the warrant based on insufficient evidence.

44. On September 15, 2022, in response to inquiries from a reporter, the Anderson Sherriff's Office confirmed that Morris's report was false.

45. Specifically, it told the reporter:

After talking with all the employees and seeing the TikTok video that an employee posted from the event, none of the allegations were true... The employees did not stop her from leaving and did not put their hands on her, which is what the boss reported had happened. She is the one who initiated any kind of contact when she pushed past one of the employees as she was walking out of the door.

Effect on the Plaintiffs

46. Defendants' unlawful conduct harmed the reputation of plaintiffs by falsely stating or insinuating that they had engaged in criminal assault and kidnapping and engaged in threatening conduct.

47. Defendants' unlawful conduct caused Plaintiffs to suffer from emotional distress and mental suffering.

48. Defendants' unlawful conduct caused injury to Plaintiffs' reputations.

Count 1: Defamation

49. Plaintiffs incorporate each of the factual allegations from the above paragraphs.

50. Defendant Morris falsely told other individuals that Plaintiffs committed assault and kidnapping.

51. In apparent consultation with Starbucks upper management and attorneys, Morris then falsely informed law enforcement that Plaintiffs committed assault and kidnapping.

52. Starbucks published a statement on August 8 falsely insinuating that Plaintiffs had engaged in criminal conduct and falsely stating Plaintiffs had engaged in threatening conduct towards Morris.

53. Starbucks and Morris have never retracted their false and misleading statements.

54. Defendants made the false statements with knowledge of their falsity.

55. Defendants' false statements were made with malice.

56. Defendants' false statements constitute defamation per se because they falsely accuse Plaintiffs of crimes of moral turpitude and unfitness in their profession.

57. Defendants' actions injured Plaintiffs by subjecting them to an unwarranted police investigation and falsely portrayed them as criminals, which has caused damage to their reputations.

Count 2: Abuse of Process

58. Plaintiffs incorporate each of the factual allegations from the above paragraphs.

59. Defendants had an unlawful ulterior purpose when it made false claims to police that Plaintiffs assaulted Morris and prevented Morris from leaving the store, and when they sought to have a warrant issued for the arrest of Plaintiffs.

60. Specifically, Defendants made these false claims for the illegitimate collateral purpose of injuring Plaintiffs.

61. Defendants' false statements to police were willfully false and not made in good faith.

62. Defendants' false statements were not made for a proper purpose for which the legal process was intended, but instead for the illegitimate collateral purpose of preventing Plaintiffs from publicly protesting Starbucks.

63. In making the false statements, Defendants misapplied and abused the process for reporting criminal activity and seeking judicial intervention to remedy same.

Prayer for relief

WHEREFORE, Plaintiffs request:

- a. A declaratory judgment against Defendants that they engaged in defamation and abuse of process.
- b. An injunction against further violations, including further statements that Plaintiffs engaged in assault and kidnapping.
- c. An award of damages, including compensatory and punitive damages.
- d. An award of reasonable attorneys' fees and costs.
- e. Such other further relief as this Court deems just and proper.

Jury demand

Plaintiffs demand a trial by jury.

Respectfully Submitted,

s/Matthew R. Ozment
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*Application and Motion for Pro Hac Vice
Admission to be Filed.*

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*Application and Motion for Pro Hac Vice
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Date: October 17, 2022

STATE OF SOUTH CAROLINA	)	IN THE CIRCUIT COURT OF THE
	)	TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	CASE NO: 2022-CP-04-02159
	)	
	)	
Skylar Blume,	)	
	)	TRANSCRIPT OF RECORD
PLAINTIFF,	)	
	)	
-vs-	)	
	)	
Melissa Morris, et al,	)	
	)	
DEFENDANTS.	)	
	)	
_____	)	

JUNE 14, 2023
ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE R. LAWTON MCINTOSH

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Court Reporter

I N D E X

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PROCEEDINGS

THE COURT: Blume versus Morris. This is Starbucks' and Morris' motion to dismiss, is that correct?

MR. BELCHER: That is correct, Your Honor.

THE COURT: All right, sir. Be glad to hear from you.

MR. FOSTER: Thank you, Your Honor. May it please the Court? Bill Foster, here representing Defendant Starbucks Corporation. I've got my friend, Reggie Belcher, here today with me as well. He represents the co-defendant, Starbucks manager, Melissa Morris. Your Honor, we're here today on defendants' motions to dismiss and compel arbitration, and respectfully submit that this hearing might be a short one, even though I'll probably talk too long, if the Court will indulge me.

And the reason that is, Your Honor, is the Plaintiff's only opposition to Defendants' motion are that the Defendants waived their right to arbitration by filing a motion to dismiss. The Court may remember the hearing we had earlier on Garmon preemption. And they also argue, Your Honor, that the Plaintiff's claims, defamation and abuse of process, aren't -- fall outside of the coverage of the arbitration agreement. They are not covered claims as defined by the arbitration agreement.

Now, as part of that, they also argue that there is this outrageous tort exception to arbitration, in the Aikens case,

1 I believe they cited, Your Honor, should apply, because -- and
2 that case said that, you know, if a claim that is so
3 outrageous or unusual that a Plaintiff couldn't reasonably
4 expect that they would be including that in the arbitration
5 agreement, that that should not fall within the scope of the
6 arbitration agreement.

7 Your Honor, we submit all those arguments are wrong,
8 under the black letter law of South Carolina, and in some
9 cases, the United States Supreme Court. But more importantly,
10 perhaps, the Plaintiffs haven't raised an issue, Your Honor --
11 they haven't raised a challenge to the delegation clause of
12 the arbitration agreement. The Starbucks future arbitration
13 agreement, Your Honor, has provision in it, and it says as
14 follows. This is Exhibit C to Starbucks' motion -- memo in
15 support of the motion to dismiss. We also attached it as
16 Exhibit A to our Reply that we filed yesterday afternoon.
17 Provisions except as provided below, Starbucks and I agree
18 with the arbitrator and not a corporate agency shall have
19 exclusive authority to resolve any dispute regarding the
20 formation, interpretation, applicability, enforceability,
21 implementation of this agreement, including any claim that all
22 or part of this agreement is void or voidable.

23 Now, as Your Honor, knows, South Carolina courts have
24 held that such gateway clauses mean that the issues that the
25 Plaintiffs have raised in opposition to our motion to dismiss

1 or compel arbitration, have to be resolved by the arbitrator,
2 and not the Court. And we cited, I believe in our reply
3 brief, Your Honor, the case of Doe versus TSCS, LLC, and
4 that's 6 -- excuse me 846 Southeastern Second 874.

5 Now, the U.S. Supreme Court, Your Honor, in the Henry
6 Schein case, reached the same conclusion, and it said parties
7 may agree to have an arbitrator to decide not only the merits
8 of a particular dispute, but also, quote, unquote, gateway
9 questions of arbitrability, such as whether the parties agreed
10 to arbitrate, or whether their agreement covers the particular
11 controversy. So, Your Honor, the Plaintiff's arguments
12 against the enforcement, against our motion to compel
13 arbitration, are all gateway issues, and the parties have
14 agreed -- they don't challenge the fact we have a valid
15 contract or a valid agreement. They don't challenge that they
16 are party to this agreement.

17 And because they don't challenge that, and specifically,
18 Your Honor, if you look at the Rent-A-Center case, it's a U.S.
19 Supreme Court case that we also cited, a party who wants to
20 oppose this delegation has to specifically -- and let me get
21 the quote right -- the party resisting arbitration has to make
22 a direct and discreet challenge to the validity and
23 enforceability of the delegation clause specifically.

24 They've got to attack that for this Court to then
25 consider, okay, should the -- is the delegation clause valid

1 and enforceable. But they haven't done that, Your Honor.
2 They've ignored that completely. And because of that, really
3 all of the issues that we would be talking about today,
4 whether Starbucks and Mrs. Morris waived the arbitration
5 agreement or waived their right to enforce the arbitration
6 agreement, whether their particular claims fall in the scope
7 of covered claims under the arbitration agreement -- those all
8 have to be decided by the arbitrator and not the Court.

9 Now, they'll live to fight another day. They could raise
10 these same challenges that they've raised in their opposition
11 brief, Your Honor, to the arbitrator, but that's the way they
12 have to do it as a matter of South Carolina Supreme Court and
13 U.S. Supreme Court law.

14 THE COURT: Well, isn't the trend on arbitration clauses
15 a way from arbitration -- although it's been the favored way
16 of getting things taken care of in the past? Today the trend
17 of cases seems to be away from arbitration, and I'm giving the
18 parties an opportunity to have their matter resolved in Court.
19 Isn't that the trend here and nationally?

20 MR. FOSTER: Your Honor, I'm not aware of any trend in
21 South Carolina that would be applicable in this case.

22 THE COURT: You haven't been reading the cases, then.

23 MR. FOSTER: Your Honor, I respectfully defer to the
24 Court in that regard. But in this particular instance, there
25 is -- we have a mutual agreement to arbitrate that's valid,

1 binding ---

2 THE COURT: Why did you wait until now to decide -- to
3 ask for it? Why did you go into discovery and have a prior
4 motion that we came in here and did and now 10 months later or
5 whatever it is -- when was this case filed?

6 MR. FOSTER: October of 2022, Your Honor.

7 THE COURT: Okay. So, all these months later, now you
8 want to ask for arbitration? I think it's a little bit late.

9 MR. FOSTER: Your Honor, respectfully, Starbucks and Mrs.
10 Morris have not engaged in any discovery. And in our ---

11 THE COURT: Really? I thought you had.

12 MR. FOSTER: No, Your Honor.

13 THE COURT: Okay.

14 MR. FOSTER: We have done no discovery whatsoever.

15 THE COURT: I stand corrected. Okay.

16 MR. FOSTER: But, Your Honor, in our answer, we timely --
17 both defendants timely responded with an answer. In our
18 answer, on page one of our answer, we said -- and let me find
19 the quote, because I'll mess it up otherwise. Plaintiff's
20 claims should be dismissed because those claims are subject to
21 and governed by the binding agreement to arbitrate, and as
22 such, this Court lacks jurisdiction over this dispute and/or
23 is the improper venue for this action.

24 And to the Court's question about why we had that earlier
25 motion. That's a fair question, Your Honor. That motion, as

1 the Court will recall, we labored over it and put you -- took
2 up a lot of your time, and we were very appreciative of your
3 patience. It was based on Garmon preemption. And Garmon
4 preemption is a Supreme Court doctrine, Supreme Court case
5 that says that if a claim as it relates to an unfair labor
6 practice -- if it's basically an unfair labor practice charge
7 or claim, dressed up in this instance as defamation or abuse
8 of process, then the only appropriate forum is the National
9 Labor Relations Board. Not this Court, or any court, state or
10 federal, and not an arbitrator. And because of that, Your
11 Honor, we felt we had to make that motion first.

12 THE COURT: I understand.

13 MR. FOSTER: And, Your Honor, the South Carolina courts
14 have said that -- and let me find the case, specifically. We
15 cited in our reply brief, Your Honor, Carlson versus S.C.
16 State Plastering, LLC, the South Carolina Court of Appeals
17 held that a party did not waive his right to arbitration by
18 filing a motion to dismiss on jurisdictional procedural
19 grounds before seeking to compel arbitration. And so, holding
20 the Court -- noted that the Defendants in that case, as the
21 Defendants in this case as well, Your Honor, had raised the
22 issue of arbitration since the inception of the action. We
23 did that -- first thing we did in our answer, page one -- I
24 think complete with footnote, Your Honor. And that no
25 discovery had been completed by either party -- we haven't

1 attempted any discovery, Your Honor.

2 Now, the Plaintiff's filed, or served us with discovery,
3 but we timely responded with an objection saying that this
4 case is subject to arbitration, so discovery would be
5 inappropriate. That's the extent of what we've done in
6 discovery.

7 THE COURT: Okay.

8 MR. FOSTER: Your Honor, in the Carlson case, it noted
9 that the party hadn't waived its right to compel arbitration,
10 and noting that the -- that the Court noted that the moving
11 party's two-year delay -- two-year delay in seeking
12 arbitration was insufficient to warrant a finding that the
13 moving party had waived its right to compel arbitration. So,
14 Your Honor, under the facts of this case, they're even better
15 than Carlson.

16 And just to kind of run through it, the Plaintiffs filed
17 a complaint in October of 2022, and as I noted before, the
18 Defendants answered. Page one in the answer, we put them on
19 notice, and we also claimed affirmative defense related to the
20 arbitration agreement. Now, we obviously came before this
21 Court and had our motion -- our hearing on the Garmon
22 preemption. I think oral arguments in that -- on those
23 motions were on February 9th, but the actual order was entered
24 April 27th of 2023.

25 Starbucks filed its motion for arbitration on April 7th,

1 2013, three weeks before the order on our prior motion to
2 dismiss on jurisdictional grounds. So, I mean, pursuant to
3 South Carolina law, there is no real argument that we've
4 waived our right to compel arbitration. And respectfully,
5 Judge, the United States Supreme Court has also ruled that the
6 issue of whether a party has waived its right, if there's a
7 broad delegation clause as we have here, that's also an issue
8 for the arbitrator and not the Court to decide.

9 THE COURT: Okay.

10 MR. FOSTER: Your Honor, the Plaintiff's other arguments
11 -- let's see. I think I've covered, Your Honor -- if not --
12 yes, I have covered, hopefully, the waiver argument. In that
13 case, Your Honor, it says waiver, delay, or like offenses are
14 familiar gateway issues. That's the Moses H. Cone Memorial
15 Hospital Supreme Court decision, 460 U.S. 1 (1983).

16 Your Honor, the Plaintiff's, I guess, first argument --
17 let's see -- is that there are causes of action for defamation
18 and abuse of process aren't covered by the arbitration
19 agreement. The arbitration agreement defines covered claims
20 as those brought by any statute, local ordinance, or common
21 law related to unemployment, including those concerning any
22 elements of compensation, harassment, discrimination,
23 retaliation, recovery of bonus or relocation benefits, leaves
24 of absence, accommodations, or terminations of employment.

25 Now, Your Honor, in their brief opposing our motions, the

1 Plaintiffs try to focus on the elements in their causes of
2 action, and say, oh, these aren't employment claims. We don't
3 have to prove anything about employment to prove defamation or
4 to prove abuse of process. But that's not how the Courts of
5 South Carolina actually analyze -- or other Courts, frankly --
6 actually analyze whether a claim relates to an arbitration
7 agreement. The factual allegations underlying the claim, and
8 not the elements of the claims themselves, but what the courts
9 look to determine whether a claim is within the scope of an
10 arbitration agreement. That's the Zabinski case, Your Honor,
11 that we cite in our brief.

12 Importantly, Your Honor, this is, again, black letter
13 law. This is a South Carolina Supreme Court decision in
14 Carolina Care Plan, unless the Court can say with positive
15 assurance that the arbitration clause is not susceptible to an
16 interpretation that covers the dispute, arbitration should be
17 ordered. And even if the Courts have doubts about the scope
18 of an arbitration agreement, those doubts must be resolved in
19 favor of arbitration.

20 Your Honor, the Plaintiffs take issue and contend in
21 their brief that we've failed to point to any South Carolina
22 cases in the employment context that found that tort claims
23 are subject to arbitration. That's actually not true, Your
24 Honor. We cited to the Landers versus Federal Deposit
25 Insurance Corporation decision. In that case, the Court held

1 that the claims of defamation and intentional infliction of
2 emotional distress did fall within the scope of the
3 arbitration agreement.

4 The Towles decision, Your Honor, claims -- tort claims
5 including defamation, conspiracy, negligent supervision, and
6 reckless or intentional emotional distress were found to fall
7 within the scope of the employer's arbitration agreement.
8 Your Honor, here in this case, the Plaintiffs say everything
9 that -- or both their claims -- all originate from an incident
10 that occurred at work. They occurred following the incident
11 where these Plaintiffs approached their manager to complain or
12 protest about their terms and conditions of their employment,
13 to talk about their wages.

14 They filmed the incident. Later it was posted by the
15 Union on the website. Mrs. Morris felt intimidated, felt like
16 she was not free to leave. Plaintiffs dispute that, but
17 that's what Mrs. Morris felt. She reported the incident to
18 police. Then later, Starbucks, as her employer, issued a
19 statement about the incident. And from this incident that
20 happened in the workplace, the Plaintiffs have their claims.

21 There really isn't, I think, any legitimate argument, but
22 that these claims are related to their employment. We're
23 talking about their interpretation of liability flowing from
24 an offense that started in the workplace. Importantly, Your
25 Honor, in the complaint, they talked about their defamation

1 claim. And as the Court referenced, and will recall, I guess,
2 in our motion to dismiss on Garmon preemption, the Plaintiffs
3 argue that there is an exception for claims of defamation
4 where malice existed or malice was alleged, and they pointed
5 to their complaint to say -- where it said that this was
6 defamation per se, because it impacted their reputation -- or
7 their fitness in their profession.

8 Your Honor, they're specifically referencing the impact
9 on their fitness for profession, and the courts in South
10 Carolina have found that that puts this within -- puts
11 defamation within the realm of being related to employment.

12 THE COURT: I thought it was per se meaning that they
13 accused him of a crime, and as a result there was -- you'd
14 have to prove damages that were presumed.

15 MR. FOSTER: Your Honor, there's a number of them -- of
16 ways to establish defamation per se. But let me find the
17 specific reference in the complaint. I've got the complaint
18 here. It's easier to find than in my notes, Your Honor. This
19 is page 8 of the complaint, paragraph 56. The Defendant's
20 false statements constituted ---

21 THE COURT: This is 56 of the complaint?

22 MR. FOSTER: Of the complaint, Your Honor.

23 THE COURT: Okay.

24 MR. FOSTER: Defendant's false statements constitute
25 defamation per se because they falsely accused Plaintiffs of

1 crimes of moral turpitude, and unfitness in their profession.

2 THE COURT: All right.

3 MR. FOSTER: Your Honor, there's a case we cite in our
4 Reply, and I don't know if I brought copies. I can hand it up
5 -- I can hand a copy to the judge, but I don't think I brought
6 extra copies for everybody else. But it's a 2018 case,
7 Marzulli versus Tenet South Carolina, Inc., and it's not a
8 recorded decision, Your Honor, but I thought it was
9 interesting the Court specifically noted there that the
10 Plaintiff, who was trying to claim her defamation claim was
11 not related to their employment, and it should not fall within
12 the scope of the employer arbitration agreement.

13 The Court said, look, you're kind of stuck, because in
14 your complaint, you specifically referenced defamation per se
15 and stated that the statements -- the false statements damaged
16 -- or impugned, sort of, fitness -- suggest unfitness in your
17 profession. You've tied to employment. You can't have it
18 both ways.

19 And that's the same thing here, Your Honor. In the abuse
20 of process claim, again the Plaintiffs -- the origin of the
21 claim is this incident that happened at work between employees
22 and their manager, Mrs. Morris. And the Plaintiffs
23 specifically say that the reason that Starbucks and Mrs.
24 Morris did what they did -- I guess, attempted to press
25 charges or report it to the police, is because they wanted to

1 prevent the Plaintiffs from protesting Starbucks. They wanted
2 to prevent the Plaintiffs from protesting about their wages
3 and the terms and conditions of their employment.

4 So, there really is no rational argument to be made, and
5 certainly not within the case law, that these two claims the
6 Plaintiffs have brought aren't covered claims within the scope
7 of the mutual arbitration agreement. And certainly not an
8 argument, Your Honor, that the Plaintiffs could make that
9 there is -- that the Court could say without the positive
10 assurance that the claims aren't covered by the arbitrated
11 agreement, because that can't happen in deference to the
12 arbitration agreement that would require its enforcement in
13 this context.

14 Your Honor, again, South Carolina and U.S. Supreme Court
15 precedent says that, you know, this is an issue of whether
16 covered claims would be -- have to be decided by the
17 arbitrator. The last argument the Plaintiffs make, Your
18 Honor, is that this outrageous tort exception should apply,
19 and that's the case of Aiken versus World Finance, and that's
20 a case involving an intentional tort claims or -- excuse me,
21 intentional tort claims by a borrower against a consumer
22 finance company. And what happened in that case, Your Honor,
23 is some employees of Consumer Finance Company stole a bunch of
24 personal information, and I think in that case they were
25 bringing it on behalf of themselves, a class of individuals,

1 and the Court said that, you know, criminal theft of a
2 consumer's personal information by employees is so outrageous
3 and unexpected that it's not fair to assume that the Plaintiff
4 in this case would have known that that claim would be covered
5 under an arbitration agreement. And so, that's sort of the
6 outrageous ---

7 THE COURT: Well, what would be the difference between
8 that and the supervisor calling and making a false claim of
9 false arrest that was proven not to be the case by law
10 enforcement in their investigation? What would be the
11 differentiation between those two factual matters?

12 MR. FOSTER: Well, Your Honor, one, this is -- in the
13 case of the consumer, you're talking about a person going to
14 get a loan.

15 THE COURT: Say that again.

16 MR. FOSTER: The consumer, in the Aiken case, Your Honor,
17 the consumer is going to get a loan, and so they sign an
18 arbitration agreement. They assume that that arbitration
19 agreement is going to relate to their loan transaction. It's
20 not going to cover criminal misconduct by employees, that you
21 shouldn't expect ---

22 THE COURT: So what's the difference in the case here?

23 MR. FOSTER: Your Honor, I've been doing employment law
24 for 30 years, and I can promise the Court, and you probably
25 already know this, that claims of defamation by an employee,

1 or claims of abuse of process by an employee against its
2 employer, those aren't unexpected. Those happen all the time.
3 I defend them all the time, and I quite honestly haven't seen
4 an unemployment discrimination in the last five years that
5 didn't include a claim of defamation.

6 Your Honor, the question is, are these claims related to
7 employment, and they clearly are. There's any number of
8 circumstances -- for example, imagine your manager thinks that
9 the cash drawer is short, and reports you to the police. It
10 turns out you didn't do it. That's not select stream or
11 unforeseen or unforeseeable that it would fall under this
12 Aiken exception. And I think that's the difference, Your
13 Honor.

14 The question is, is it related to their employment, and
15 this clearly is, whereas in the Aiken case, the criminal
16 activity of employees stealing your information, that's not
17 something you're thinking about when you sign an arbitration
18 agreement with the company you're taking a loan out of, that
19 that kind of claim would be covered by this type of
20 arbitration agreement. And again, Your Honor, the courts have
21 said that the issue of whether this intentional -- excuse me,
22 this outrageous exception or operator short exception apply,
23 again, it's a gateway issue for the arbitrator. I mean,
24 that's really not for dispute.

25 Your Honor, just some more examples, from the Landers

1 case I think I mentioned before, the Lander defamation claim
2 was arbitrable because the alleged defamatory statements
3 related to her ability to perform her duties. We cited
4 Pearson versus Hilton Head Hospital also, and the Towles case,
5 Your Honor. We've also cited a Federal District Court case
6 from California, not necessarily noted to be the most employer
7 friendly, perhaps, is the Sabouhi decision, which is Exhibit B
8 to our reply brief, Your Honor, where the Court there found
9 that the -- all of the employees' claims under Sabouhi, under
10 this very agreement were subject to arbitration, including
11 claims of defamation.

12 Your Honor, so, you know, just to sum up, and I know I've
13 gone on too long, all of the issues that we've talked about
14 today are gateway issues. We have a contract to arbitrate.
15 And the contract to arbitrate that the Plaintiffs signed, say
16 that the arbitrator, and not the Court, or any agency, has to
17 decide whether these claims -- your claims are covered by
18 arbitration, or even whether Starbucks or Mrs. Morris have
19 waived their right to invoke the arbitration agreement. So,
20 respectfully, we'll have to have another -- an argument -- or
21 the Plaintiffs will get to have another day to argue this.
22 This is not the day.

23 THE COURT: Thank you, sir. All right, tell me -- I'm
24 sorry, go ahead.

25 MR. BELCHER: I have just one issue on behalf of Mrs.

1 Morris.

2 THE COURT: Okay. I'm sorry.

3 MR. BELCHER: Mrs. Morris filed her own motion to
4 dismiss, essentially reiterating and adopting Starbucks'
5 position on the arbitration agreement. But there's one issue
6 that's particular to Mrs. Morris, and this is also what we
7 consider a gateway issue that would be for an arbitrator to
8 decide, but the issue is this. The arbitration agreement
9 specifically bound the Plaintiffs to arbitrate claims between
10 them and Starbucks, but also to arbitrate any claims between
11 them and any current or former employee of Starbucks. And
12 that's Mrs. Morris. She was former manager of Starbucks.

13 And so, it is our position that Mrs. Morris' -- claims
14 against Mrs. Morris also fall under the arbitration agreement.
15 And in the Plaintiff's response brief, they didn't talk a lot
16 about Mrs. Morris. They only referenced her on page 9, and in
17 passing, said Mrs. Morris is not a signatory to the agreement.
18 And I guess the inference is, she didn't sign off on the
19 arbitration agreement, so she's not covered by it, but I did
20 want to bring to the Court's attention that the Pearson case
21 -- Pearson versus Hilton Head Hospital, which Mr. Foster
22 referenced -- it's a Court of Appeals case from South Carolina
23 in 2012, specifically addressed the issue.

24 The Court of Appeals said, well-established, common-law
25 principles dictate that non-signatory -- which is Mrs. Morris

1 -- can't enforce working bound by arbitration provisions
2 within a contract executed by other parties. Here, as the
3 case goes down and analyzes the rights and the duties of a
4 non-signatory to an arbitration agreement. And it says that a
5 non-signatory is bound by an arbitration agreement, or an
6 enforced arbitration agreement, where an arbitration clause
7 raises allegations of substantially interdependent and ---
8 misconduct by both the non-signatory nor the signatory's
9 contract. And that's exactly what we have here.

10 The Plaintiffs are alleging these two torts against
11 Starbucks and Mrs. Morris, and the claims are interdependent,
12 and they have allegations asserted misconduct by both Mrs.
13 Morris and Starbucks. So, it's our position that Mrs. Morris'
14 claims are equally arbitrable, based on the Pearson versus
15 Hilton Head Hospital case. Now, I have a copy of that case if
16 the Court would like it.

17 THE COURT: Okay, thank you.

18 MR. BELCHER: Thank you, Judge.

19 MR. OZMENT: Thank you, Your Honor. I believe you
20 started to ask me a question. I'm happy to answer something
21 ---

22 THE COURT: Let me ask you a question. What facts do you
23 contend that are out there that shows that Starbucks waived
24 their right to mandate arbitration?

25 MR. OZMENT: That's a good ---

1 THE COURT: According to what I read, was that they
2 engaged in discovery and they filed this motion to dismiss.
3 Counsel says we didn't engage in any discovery, we've been
4 claiming it from the beginning.

5 MR. OZMENT: So, they did file a motion to dismiss, Your
6 Honor. I find it odd that even under their own reasoning,
7 they are saying the arbitrator should have heard gateway
8 issues. An arbitrator could have heard the Garmon preemption
9 issues. There's nothing that says the Court has to hear that
10 versus an arbitrator. So, Your Honor, I think what this is,
11 is they are trying to get a lot of bites of the same apple.
12 And so, they pick something up, Your Honor didn't rule with
13 them.

14 You'll remember -- they actually kind of left this out.
15 They actually asked for this case to go to business court.
16 That motion was filed. Your Honor didn't hear it. Judge
17 Young in Charleston denied that motion, so they were fine with
18 the business court hearing it. They asked for it. Again,
19 that apple -- you know, they didn't get that bite, so now
20 we're here, third bite of the same apple.

21 On discovery, we have served discovery on them. On the
22 day it was due, they responded with basically a response was
23 just this should be arbitrated, this should be arbitrated ---

24 THE COURT: So, the answer is they have not engaged in
25 discovery. They filed a motion, and they filed a motion in

1 business court, but other than that, they haven't engaged in
2 discovery. Is that fair?

3 MR. OZMENT: That's fair, Your Honor.

4 THE COURT: All right, go ahead.

5 MR. OZMENT: And so, on that, I'm going to start with the
6 waiver issue. They're presenting that the waiver issue should
7 be decided by an arbitrator. However, that's contrary to
8 South Carolina law. I'm going to give you Samuel versus
9 Schumacher Homes. This is a Court of Appeals case from last
10 year. On the first line of text on the right side, we hold
11 the issue of waiver of arbitration through litigation is one
12 for the Court to decide rather than arbitrators. So, I think
13 that is clearly before the Court and should not be sent to an
14 arbitrator.

15 So, let's talk about waiver. Your Honor hit the nail on
16 the head that there is a trend recently back towards
17 litigation away from arbitration. I would say leading that
18 trend is Morgan versus Sundance. That's the United States
19 Supreme Court case from last year. It's a published case. We
20 cited it in our response. They kind of dismissed it with a
21 footnote and didn't really address it in their reply they
22 filed yesterday.

23 But what Morgan says, is -- and there's a federal circuit
24 slip that says, you know, across the country, courts are going
25 down these rabbit holes on arbitration clauses, and putting

1 special requirements when it's something that's arbitrated.
2 And this Court says it's a lot simpler than that. Arbitration
3 is a creature of contract. So, waiver of an arbitration
4 clause goes back to basic contract law on whether or not it's
5 been waived. You know, we don't go down any rabbit holes.
6 It's contract law, pure and simple.

7 And, you know, I think this case really in some ways was
8 a game-changer for things like this. You know, everything he
9 cited is all this South Carolina that's pre-Morgan where
10 courts looked at this, looked at that, but really, it's a
11 simple matter of did they waive it under contract law? And
12 under contract law, they have, in South Carolina.

13 This is in our response brief, but you know, the
14 Lawrimore case, South Carolina Supreme Court case from '81,
15 where a party makes any speech or performs any act which is
16 reasonable to infer that the company does not stand on a
17 right, then that waiver may be inferred. City of North Myrtle
18 Beach versus Lewis-Davis, 360 South Carolina 225, a 2004 Court
19 of Appeals case, knowledge of facts related to a waivable
20 right -- if a party has knowledge or facts related to a
21 waivable right or defense, and then takes any action or
22 inaction inconsistent with it, then the defense has been
23 waived.

24 I mean, I think that's exactly what we have here. They
25 have known that these arbitration agreements existed, you

1 know, since before this lawsuit was filed. They came in, they
2 did the Garmon preemption motion. If -- that could have been
3 arbitrated. They chose not to do it. They asked it to go to
4 business court, you know, basically asking the court to keep
5 the case, knowing if they didn't win that -- other than that,
6 I think it's been waived.

7 I'm not aware of any South Carolina -- certainly not any
8 appellate cases of Morgan being applied yet in South Carolina,
9 so I mean, I think it's a borderline novel issue for us, but I
10 think Morgan goes with the trend that Your Honor has already
11 identified, and I think it's kind of saying, this is a simple
12 waiver, it is not a complicated analysis. So, I think, you
13 know, to that -- to me, really is a big part of the waiver.

14 Moving on to the other two arguments, and both of these,
15 to a point to me, turn on the Aiken case -- Aiken versus World
16 Finance, the 2007 Supreme Court case we've already talked
17 about some. The defense in this case is trying to apply
18 essentially the but-for causation and saying all these claims
19 came out of their employment, so therefore, but-for being
20 employed with Starbucks, that's why these get arbitration.
21 That's exactly what Aiken rejects. Aiken says, you know,
22 we've -- the but-for test is not appropriate when you're
23 looking at an arbitration clause.

24 I'm not going to take any quarrel with Bill's synopsis of
25 the facts in Aiken, but the simple matter is that they've

1 said, you know, a criminal act that happened later is not
2 something that could be foreseen when you signed the
3 arbitration clause. Same thing here. In the arbitration
4 agreement itself, it lists the kinds of claims. They are all
5 employment claims. You know, it's benefits, harassment,
6 discrimination.

7 This case -- and they're trying to couch it to other --
8 they're talking about their employment status. That's not the
9 allegations of this case. The allegations of this case are
10 when Mrs. Morris accused the Plaintiffs essentially of
11 kidnapping and assault in a false police report.

12 I do not think any employee, when they sign an
13 arbitration agreement at the beginning of their employment,
14 could reasonably foresee in any way, why a manager may accuse
15 me of kidnapping and assault, so that's what I'm waiving here.
16 So, I mean, I think that goes to both the scope of the claims,
17 but also to this outrageous tort exception of these are way
18 outside anything we've been talking about.

19 They're also trying to have it a little bit of both ways.
20 You know, they're citing all these cases, and saying, oh, will
21 defamation win. I can remind Bill of cases I have that -- he
22 said he hadn't seen an employment claim in five years that
23 doesn't have a defamation claim in it. There are plenty, and
24 they are trying to get the Court to look at what the causes of
25 action are and not the facts. I agree with him. I'm fine

1 with you looking at the facts of the case.

2 The facts of the case are their manager falsely accused
3 them of a crime, which was investigated, and the police even
4 released a statement saying these are false claims against
5 these people. So, I think, you know, if we look at the facts
6 underlying it, I think it clearly is outside the arbitration
7 claim and it clearly puts us under that outrageous tort
8 exception as well.

9 It would be no different if you got in a fight at work
10 with a coworker. I mean, that would be like saying you
11 couldn't sue the coworker for assault, because, you know, it
12 happened to be at work. And it's not this but-for
13 relationship. This is clearly outside anything that would be
14 foreseeable, and certainly qualifies for the outrageous tort
15 exception.

16 Also, I want to -- you know, he took issue -- I want to
17 cover this, and I'm about done. He briefly took issue, you
18 know, that all of these cases cited in their brief in which
19 the arbitration agreements were in force all fall under -- I
20 mean, all contain traditional employment claims. And we stand
21 by that. He cited the California case, Sabouhi versus
22 Starbucks, and that is true. However, that claim has 17
23 causes of action. The first 16 of them are traditional labor
24 and unemployment claims. The 17th one was defamation. So,
25 yes, in that case defamation did get sent to arbitration.

1 However, it was couched in clearly a traditional employment
2 lawsuit.

3 This is not an employment lawsuit. I would say that this
4 just happened to be at Starbucks and they happened to be
5 employees. At the end of the day, this is falsely accusing
6 someone of a crime and then abusing the court process to try
7 to pursue that, and that's, you know, well outside anything
8 that would ever be contemplated in a normal employment
9 relationship.

10 If I can beg the Court's indulgence one minute. Briefly
11 on the delegation clause, I do think we're making a -- they're
12 trying to argue under the Doe case that we delegate away, you
13 know, all of the gateway issues. I think waiver we've already
14 discussed. Clearly, it's before the Court. And then, I
15 guess, you know, beyond that, I think it is proper for the
16 Court to consider here, where we are, that these claims are so
17 outside anything that would contemplate being arbitrated, that
18 it would be appropriate for Your Honor to rule on these issues
19 outside the waiver arguments. Thank you.

20 THE COURT: Let me ask you a question. In your first
21 motion to dismiss, was based on the fact that the National
22 Labor Relations Board could review this case.

23 MR. BELCHER: Correct, Your Honor.

24 THE COURT: And that's understandable in that situation.
25 But then, when you filed a motion to be admitted into business

1 court in this case, that's entirely, to me, a different
2 matter. And so you -- it seemed like you have chosen the
3 forum in which to resolve this matter, frankly.

4 MR. FOSTER: Your Honor ---

5 THE COURT: Why is that not the case? Just because you
6 were turned down doesn't mean you haven't waived your right to
7 demand arbitration.

8 MR. BELCHER: Well, respectfully, Your Honor, appellate
9 courts of South Carolina disagree, because they said that a
10 party doesn't waive its right to compel arbitration simply
11 because it files motions related to jurisdictional procedural
12 issues first. That's ---

13 THE COURT: You filed a motion to be in a particular
14 court to have that court hear your case and dispose of that
15 case. Entirely different.

16 MR. BELCHER: Right.

17 MR. FOSTER: Your Honor, we filed that before we filed
18 the motion to ---

19 THE COURT: It doesn't matter. Doesn't matter when you
20 filed it. You filed it. Right?

21 MR. FOSTER: Your Honor, that's a procedural -- we -- our
22 reasoning there, Your Honor, is the Garmon preemption issue is
23 a complicated issue of law that we thought it was appropriate
24 within a designation to assign. That's where our case is
25 assigned. We're in court, we're going to have to have the

1 motion heard somewhere, so that's -- we're not taking any
2 action that is inconsistent with our right to then file this
3 motion to compel arbitration.

4 THE COURT: You filed your motion for the business court
5 before that motion was filed to have it dismissed, and sent to
6 the National Labor Relations Board?

7 MR. FOSTER: Yes, sir.

8 THE COURT: I don't think you did. Are you sure?

9 MR. FOSTER: I'm ---

10 THE COURT: It seems to me when you were here before, you
11 asked me to hear this case because I'm a business court judge.
12 I said you've got to have Judge Young do it, and then you
13 filed it. So that came after, if I recall.

14 MR. FOSTER: Your Honor, respectfully, that's not what
15 happened.

16 THE COURT: If I'm wrong, I don't mind being told I'm
17 wrong.

18 MR. FOSTER: No, but respectfully, that's not how it
19 happened.

20 THE COURT: Okay. Okay.

21 MR. FOSTER: Actually, we said, we -- I think we
22 contacted the Court and said, look, we had filed that first,
23 and we think that should be -- I think we filed first. We
24 think that the decision of whether this is a complex issue and
25 should go to business court should be filed first, or should

1 be heard first. But because counsel had already come down
2 from where they were coming down from for the hearing, we --
3 it wouldn't have been appropriate, and we decided -- the Court
4 decided it wouldn't be appropriate, and obviously we couldn't
5 agree to reschedule it.

6 But, Your Honor, you know, with all due respect, we've
7 cited the case in our briefs, and it is simply asking for a
8 case that's been filed to be assigned to a particular part of
9 the judicial system. It's not an admission or inconsistent
10 with a party saying that they're going to move to compel
11 arbitration. It's just where that motion is going to be
12 heard. You know, not to lose sight of the fact that from the
13 very outset of this case, we protected against that by putting
14 the Plaintiffs and the Court on notice, of our intention to
15 rely on the arbitration agreement to claim there's a lack of
16 jurisdiction in the South Carolina state court. That's on
17 page one of our answer. So, that's -- you know, we have not
18 taken any action inconsistent with the rights that bring us
19 before the Court today.

20 And with regard to Morgan, the reason we didn't spend a
21 lot of time on Morgan, Supreme Court case that opposing
22 counsel, Mr. Ozment mentioned, is because it doesn't have
23 anything to do with this case. Morgan settled a split in the
24 federal circuits, some of whom, including the lower court case
25 that -- or the lower jurisdiction, the eighth circuit or ninth

1 circuit, who then sent it up to the Supreme Court, had adopted
2 a federal procedural rule specific to arbitration that said
3 you have to prove prejudice. If you're opposing or if you're
4 moving to -- if you're opposing a motion to compel
5 arbitration, you have to show, in that instance, arbitration
6 through litigation or waiver through litigation -- you've got
7 to show prejudice. That's a mandatory sort of requirement for
8 the party moving against or arguing against compelling
9 arbitration.

10 And what the Supreme Court said, Justice Kagan, is, look,
11 it's not appropriate for the courts to adopt any procedural
12 rules special for arbitration that either are in favor of
13 arbitration or against it. So, what the Supreme Court said
14 is, we're stacking with the circuits that say there is no
15 mandatory requirement that the party opposing arbitration
16 prove prejudice. That's not the test. Sends it back down to
17 a lower court to apply its own test for whether arbitration is
18 the way.

19 There's nothing wrong, and South Carolina is -- the test
20 -- let me find it real quick. It's a three-part test, and
21 prejudice is one of the considerations. But it's not the only
22 consideration, Your Honor. Let's see, here we go. Rhodes
23 case, whether a substantial length of time has passed between
24 the commencement of the underlying action or filing a motion
25 for arbitration. Your Honor, all of the South Carolina cases

1 we've cited, two years, five years -- that's what we're
2 talking about. Not a matter of months. And in the Carson
3 case or the Carlson case we cited, Judge, a two year -- waited
4 two years in filing procedural motions like the Court's been
5 asking about today, were not a waiver of arbitration. And
6 that's the Carlson case. That's not impacted whatsoever by
7 the Morgan decision.

8 Whether the party seeking to compel arbitration engaged
9 in extensive discovery before moving to compel arbitration,
10 we've done nothing. And I think that's been established.
11 And, the third is whether the non-moving party is prejudiced
12 by the delay in seeking arbitration. There's been no argument
13 or no evidence submitted by the Plaintiffs that they've been
14 prejudiced somehow by the fact that we answered the complaint
15 by telling them that their claims were subject to arbitration
16 and the Court lacks subject matter jurisdiction, including
17 that as an affirmative defense.

18 You know, we've not taken any action inconsistent with
19 our right to compel arbitration. One last thing I will say,
20 Your Honor, is the U.S. Supreme Court and the South Carolina
21 Supreme Court have said all of the issues that are here --
22 that we're talking about here today are covered by this
23 delegation clause. The issue of waiver -- the same issue in
24 the Shumacher Homes case, the issue -- the problem there was
25 the delegation clause, Your Honor. That's the problem here,

1 and that's why -- you know, I read this, too. It's not
2 inconsistent with what I'm arguing today.

3 Your Honor, there is not a South Carolina case, there is
4 not any case of binding authority that on the facts that
5 actually exist here, would suggest that Starbucks or Mrs.
6 Morris have waived their right to compel arbitration, or that
7 would call into question the delegation clause, which requires
8 all of these issues to be sent and determined by the
9 arbitrator.

10 THE COURT: Appreciate it, thank you.

11 MR. FOSTER: Thank you, Your Honor.

12 THE COURT: All right, gentlemen, ladies, I will go over
13 this again, and I will give you my decision once I go through
14 it.

15 MR. FOSTER: Thank you, Your Honor.

16 THE COURT: All right.

17 MR. OZMENT: Thank you, Your Honor.

18 End of Transcript.

CERTIFICATE OF REPORTER

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL NOR INTEREST TO ANY PARTY HERETO.

Lesia D. Taylor

RoA_0107

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ANDERSON	)	
	)	C/A No. 2022-CP-04-02159
Skylar Blume, Virgil Dowis, Rhi Greer,	)	
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, and Aneil Tripathi,	)	DEFENDANT MELISSA MORRIS'
	)	MEMORANDUM CLARIFYING ITS
Plaintiffs,	)	POSITION ON DEFENDANT
	)	STARBUCKS CORPORATION'S
v.	)	MOTION TO ACKNOWLEDGE THE
	)	AUTOMATIC STAY APPLIES OR, IN
Starbucks Corporation and Melissa Morris,	)	THE ALTERNATIVE, FOR
	)	SUPERSEDEAS
Defendants.	)	
	)	

The Defendant Melissa Morris ("Defendant Morris"), through her undersigned counsel, hereby files this clarification for the Court, acknowledging Defendant Morris' support of Defendant Starbucks Corporation's Motion To Acknowledge The Automatic Stay Applies Or, In The Alternative, For Supersedeas. Following the Court's September 11, 2023, Order denying Defendants' Motions to Dismiss, or, in the Alternative, Compel Arbitration, Defendants timely filed Notices of Appeal. Continuing any proceedings in this Court, while the question on appeal is whether the matter in its entirety should proceed before this Court or in arbitration, would be contrary to the automatic stay already in place per Rule 241, SCACR.

To that end, Defendant Morris fully joins and incorporates by reference the entirety of Defendant Starbucks Corporation's filings in its Motion of Defendant Starbucks Corporation to Acknowledge the Automatic Stay Applies or, in the Alternative, for Supersedeas, the Exhibits attached to the same, and Defendant Starbucks Corporation's Reply in Further Support of its

Motion to Recognize the Automatic Stay and Response in Opposition to Plaintiff's Motion to Compel.¹

Defendant Morris consents to Defendant Starbuck Corporation's Request for an Order that the automatic stay is in effect, or, in the alternative, granting supersedeas to the same effect.

TURNER PADGET GRAHAM & LANEY P.A.

s/Hannah D. Stetson

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ATTORNEYS FOR DEFENDANT

MELISSA MORRIS

November 7, 2023

¹ Defendant Morris recognizes that the Court's acknowledgment of the automatic stay, or, in the alternative, grating supersedeas, stays the action for all parties in this action, including Defendant Morris.

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

Skylar Blume, Virgil Dowis, Rhi Greer,
Jonathan Hudson, Natalie Mann, Mya
Ourada, Braden Terrill, and Aneil Tripathi,

Plaintiff,

vs.

Starbucks Corporation and Melissa
Morris,

Defendants.

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL DISTRICT

Civil Action No. 2022-CP-04-02159

**DEFENDANT STARBUCKS
CORPORATION'S REPLY IN FURTHER
SUPPORT OF ITS MOTION TO
RECOGNIZE THE AUTOMATIC STAY
AND RESPONSE IN OPPOSITION TO
PLAINTIFFS' MOTION TO COMPEL**

Defendant Starbucks Corporation (“Defendant” or “Starbucks”), by and through undersigned counsel, submits its Reply in Further Support of its Motion to Stay (“Motion”) and Response in Opposition to Plaintiffs Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada, Braden Terrill, and Aneil Tripathi’s (“Plaintiffs”) Motion to Compel. For the reasons set forth herein and as further set forth in Starbucks’ Motion, this matter should be stayed pending the resolution of Defendants’ appeals currently pending in the Court of Appeals and Plaintiffs’ Motion to Compel should be denied or held in abeyance by virtue of the automatic stay.

I. INTRODUCTION

Plaintiffs’ Opposition relies upon irrelevant case law and incorrect interpretations of procedural rules, statutes, and legal authority to support their argument that they should be allowed to litigate this dispute in this forum while Defendants’ appeals – which clearly alleges that this forum **is not** the proper forum for this dispute – are pending. Plaintiffs’ arguments are directly contradicted by black-letter South Carolina law and the rules of appellate procedure.

Importantly, Rule 241 of the South Carolina Appellate Court Rules (“SCACR”) clearly imposes an automatic stay upon the filing of a notice of appeal. This case is not one which fits within **any** of the exceptions to the imposition of the automatic stay set forth in Rule 241(b). In other words, pursuant to the plain language of SCACR 241 an automatic stay was imposed at the time that Starbucks (and Defendant Morris) filed its Notice of Appeal. Moreover, Plaintiffs have never filed a motion seeking to remove the automatic stay which applies pursuant to Rule 241, SCACR, thus, this Court should recognize that this matter is stayed pursuant to that rule.

Furthermore, Plaintiffs’ requested relief – to compel discovery in a forum which Starbucks (and Defendant Morris) believe does not have jurisdiction over this dispute and is improper – is diametrically opposed to this State’s rules of appellate procedure, the Federal Arbitration Act (“FAA”), and South Carolina common law. Staying discovery is common in scenarios like this case, as permitting discovery while the issue of arbitrability is pending on appeal can adversely impact the arbitration proceedings. Moreover, doing so subjects both parties to duplicative litigation costs and potentially contradictory rulings on issues. Thus, Plaintiffs’ Motion to Compel is also clearly improper as it is in an attempt to actively litigate this dispute in this Court while the parties are simultaneously litigating whether this Court is even the proper venue/forum for this action or has subject matter jurisdiction over this case.

In light of Plaintiffs’ flawed arguments and total failure to appropriately contest the automatic stay applicable in this case and, further, in light of black-letter South Carolina law which clearly provides that this case is subject to the automatic stay in SCACR 241, this Court should recognize that this matter is stayed pending the resolution of Defendants’ appeal.

As such, the Court should grant Starbucks’ Motion and issue an order recognizing the automatic stay applies here, stay any further proceedings in this case, or in the alternative, this

Court should issue a supersedeas staying this matter, and further should deny Plaintiffs' Motion to Compel.

II. ARGUMENT¹

A. The FAA Applies to the Arbitration Agreement and to Starbucks' Motion.

Contrary to Plaintiffs' arguments, South Carolina state law does not apply to this Motion or the Starbucks Mutual Arbitration Agreement ("Arbitration Agreement"). Specifically, each Arbitration Agreement states that "[e]xcept as otherwise indicated above, this agreement shall be enforceable under and subject to the Federal Arbitration Act, 9 U.S.C. Sections 1 *et seq.*" (See Arbitration Agreements, Ex. C to Starbucks' Motion to Dismiss.) Moreover, there is literally no dispute that Starbucks, and Plaintiffs through their employment with Starbucks, were engaged in interstate commerce. (Braislin Decl. at ¶ 3, Ex. A to Starbucks' Motion.) As such, the FAA – not South Carolina law – applies to Starbucks' Motion.²

Pursuant to black-letter law interpreting the FAA, the Arbitration Agreements are governed and interpreted by the FAA, not South Carolina state law. See *Henry Schein, Inc. v. Archer & White Sales, Inc.*, 139 S. Ct. 524, 529 (2019) ("arbitration is a matter of contract, and courts must enforce arbitration contracts according to their terms"); see also *Airbnb, Inc. v. Doe*, 336 So. 3d 698, 703 (Fla.), cert. denied, 143 S. Ct. 484 (2022) ("The parties agree that issues of arbitrability

¹ Pursuant to Rule 10(c) of the South Carolina Rules of Civil Procedure ("SCRCP"), Starbucks adopts and incorporates by reference the factual allegations in its Motion. Noticeably absent from Plaintiffs' recitation of the facts of this case is the fact that Defendants filed their notices of appeal – thereby triggering the automatic stay set forth in SCACR 241, **before** Plaintiffs sought to compel responses to any discovery requests.

² Plaintiffs' belated attempt to backdoor any claim that South Carolina law applies to the arbitration issues in this dispute is obviously improper. Plaintiffs have **never** argued that South Carolina law applies to the Arbitration Agreement and have never challenged the application of the FAA to this dispute or the Arbitration Agreement.

are governed by the FAA, as required by the contract”); *Soil Remediation Co. v. Nu-Way Env’t, Inc.*, 323 S.C. 454, 461, 476 S.E.2d 149, 153 (1996) (“The presence of interstate commerce makes the FAA applicable to the present arbitration agreement,” and “the FAA preempts” state law.)

Notably, Plaintiffs interpretation of the authority in their Opposition is simply incorrect as **none** of those cases apply to this dispute. Specifically, the *Toler’s Cove*, *Carolina Care Plan*, and *Huskins* opinions clearly provide that “the FAA does not preempt South Carolina state law [only] in regard to procedural rules on the appealability of arbitration orders” which **compel parties to arbitration**. *Carolina Care Plan, Inc. v. United HealthCare Servs., Inc.*, 361 S.C. 544, 558, 606 S.E.2d 752, 759 (2004) (citing *Toler’s Cove Homeowners Assn., Inc. v. Trident Const. Co., Inc.*, 355 S.C. 605, 611, 586 S.E.2d 581, 584-85 (2003) (holding only that the FAA does not preempt South Carolina state law that an order compelling arbitration is not immediately appealable); *Huskins v. Mungo Homes, LLC*, 439 S.C. 356, 364-65, 887 S.E.2d 534, 538 (Ct. App. 2023) (same). Those opinions **do not** apply to a case where a party appeals an order **denying** a motion to dismiss/compel arbitration.³ Thus, the *Toler’s Cove*, *Carolina Care Plan*, and *Huskins* opinions are inapplicable to this case or for the purposes which Plaintiffs cite to those opinions.

Further flawed are Plaintiffs’ assertions that the *Henderson* opinion somehow supports their argument that South Carolina state law, rather than the FAA applies here. (Plaintiffs’ Opposition (“Pls.’ Opp.”) at 4-5.) The *Henderson* opinion involved an appeal of a South Carolina Circuit Court’s order confirming/affirming an arbitration award, not a motion related to the automatic stay imposed under the FAA or the SCACR. *Henderson v. Summerville Ford-Mercury*

³ In certain district courts, federal courts interpret the FAA to allow for an immediate appeal of an order compelling parties to arbitration under the FFA. This is not the scenario at issue here.

Inc., 405 S.C. 440, 444, 748 S.E.2d 221, 223 (2013). Thus, it is obviously inapplicable for any purpose here.

In other words, **every** authority upon which Plaintiffs rely to support their argument that South Carolina state law applies to the Arbitration Agreement or this Motion **absolutely does not** support that argument. Frankly, Plaintiffs have failed in the obligations of candor to this Court in suggesting otherwise.

Here, the FAA undoubtedly applies to the interpretation and enforcement of the Arbitration Agreement, including the imposition of any stay pending an appeal seeking to enforce that agreement. (See *e.g.*, Starbucks’ Mot.) This is also consistent with South Carolina state law. *Soil Remediation Co.*, 323 S.C. at 461, 476 S.E.2d at 153. Therefore, the FAA applies to this Motion.

B. The FAA Requires this Court to Automatically Stay Further Proceedings.

Since the FAA, not South Carolina law, applies to the Arbitration Agreement, this Court must stay any further proceedings pending the resolution of the appeals in this case and a stay is required by Section 16 of the FAA. See *Coinbase, Inc. v. Bielski*, 143 S. Ct. 1915, 1918 (2023).⁴

Contrary to Plaintiffs’ arguments, *Coinbase* is directly relevant and applies to this dispute. (See Pls.’ Opp. at 7.) As outlined above, the FAA, not South Carolina state law applies to this dispute. (See Section II.A, *supra*.) The *Coinbase* decision involved the interpretation and application of the FAA. See *e.g.*, *Coinbase* 143 S. Ct. at 1918. Moreover, *Coinbase* clearly addressed the need for and imposition of a stay of discovery pending a party’s appeal of an order denying a motion to dismiss/compel arbitration. *Id.* The United States Supreme Court, in *Coinbase*, stated that where “the question on appeal is whether the case belongs in arbitration or instead in the district court, **the entire case** is essentially “involved in the appeal,” which includes

⁴ This conclusion is directly in line with South Carolina state law and rules of procedure. See Rule 241, SCACR.

the issue of conducting discovery. *Id.* at 1920 (emphasis added). Importantly, this is the **same** conclusion which other South Carolina Circuit Judges have reached. (See Section II.C, *infra*.)

Plaintiffs’ remaining arguments regarding *Coinbase* are also incorrect as they rely **solely** upon opinions concerning criminal cases, mostly involving unrelated double jeopardy issues, and orders which, unlike the orders appealed by Defendants, are not immediately appealable.⁵ (See Pls.’ Opp. at 7-9.)

For example, the *Miller* decision which Plaintiffs cite involved an appeal of a sentencing order which was not immediately appealable. See *State v. Miller*, 289 S.C. 426, 427, 346 S.E.2d 705, 706 (1986). Pursuant to black-letter law, an order denying a motion to dismiss/compel arbitration **is** immediately appealable. See *Towles v. United HealthCare Corp.*, 338 S.C. 29, 35, 524 S.E.2d 839, 843 (Ct. App. 1999) (holding a circuit court order denying motion to compel arbitration is immediately appealable); see also *Chorley Enterprises, Inc. v. Dickey's Barbecue Restaurants, Inc.*, 807 F.3d 553, 561 (4th Cir. 2015) (orders denying motions to compel arbitration under the FAA are immediately appealable).

Moreover, the *Miller* decision clearly involved a claim to which there was no “right to appellate review.” *Miller*, 289 S.C. at 427, 346 S.E.2d at 706. As outlined above, the FAA clearly provides such a right. See 9 U.S.C. § 16. Thus, *Miller* clearly **does not** apply here.

Similarly, the *Rearick* decision addressed a criminal defendant’s motion to avoid a second trial where the initial trial ended in a mistrial. *State v. Rearick*, 417 S.C. 391, 396–405, 790 S.E.2d 192, 195–99 (2016). Again, an issue entirely irrelevant to this matter.

⁵ Plaintiffs also compare the South Carolina Uniform Arbitration Act (“SCUAA”) to this Motion. Doing so is improper as the SCUAA does not apply to the Arbitration Agreement, nor have Plaintiffs **ever argued** that the SCUAA applies to that agreement. (See Section II.A, *supra*.) Moreover, the FAA preempts state law, including the SCUAA. *Soil Remediation Co.*, 323 S.C. at 461, 476 S.E.2d at 153. Thus, Plaintiffs’ offered arguments are clearly misplaced.

The same is true for the *Isaac* decision which **did not** involve any appeals arising under the FAA and involved an order which, unlike the orders at issue here, **was not** immediately appealable as a matter of law. *State v. Isaac*, 405 S.C. 177, 183, 747 S.E.2d 677, 679 (2013). Finally, the *Brandt* decision involved resolution of a double jeopardy claim for offenses which did not have identical elements. *State v. Brandt*, 393 S.C. 526, 541, 713 S.E.2d 591, 598 (2011). Obviously, the *Isaac* and *Brandt* decisions bear no relationship to this case, the issues presently before the Court, or the orders relevant to this Motion. Moreover, the *Coinbase* decision demonstrates precisely why a stay is necessary here.

In seeking to compel arbitration, Starbucks argued that this Court is not the proper forum/venue for this dispute. Meaning that Starbucks' position is that no part of this dispute – including discovery – should occur while this action is pending outside of arbitration. Contrary to Plaintiffs' arguments, the issue of conducting discovery in this dispute was addressed or “decided” by this Court in its prior orders, the **same** orders which Starbucks and Defendant Morris appealed. This Court denied Starbucks' (and Defendant Morris') motion to compel arbitration. In doing so, this Court determined that this Court, not arbitration, is the proper venue/forum for this dispute. Implicit in this Court's orders is that discovery may proceed in this Court. Indeed, the Arbitration Agreement, *i.e.*, the centerpiece of the underlying appeals, **explicitly governs** discovery. Thus, the issue of discovery was must certainly impacted and decided by this Court's prior orders.

Thus, allowing discovery to proceed while Defendants' appeals while arbitrability is pending on appeal “largely defeats the point of the appeal.” *Coinbase*, 143 S. Ct. at 1921 (quoting *Bradford-Scott*, 128 F.3d at 505). As a result, the need for and imposition of a stay here is clear.

Plaintiffs make clear the true relief that they seek – to litigate this dispute **while** the relevant appeals proceed.⁶ Indeed, Plaintiffs argue that there is no issue in “proceeding to discovery, and possibly **to merits briefing** in this Court.” (Pls.’ Opp. at 6.) There most certainly is an issue with doing so, namely, the fact that the parties agreed and the Arbitration Agreement provides that this Court is not the proper forum/venue for those actions to occur. Furthermore, the fact that the Arbitration Agreement **explicitly governs** discovery.

Allowing discovery to proceed here **directly** undercuts and contradicts the entire purpose of the Arbitration Agreement – which Starbucks and Defendant Morris are seeking to enforce – and would ultimately defeat the purpose of the pending appeals. If Plaintiffs are allowed (and Defendants are forced) to actively litigate this dispute in this Court, there is no purpose pursuing arbitration as doing so would remove the issues which the parties delegated **solely** to arbitration and reposition those to play out in this Court. Stated otherwise, conducting discovery or arguing dispositive motions to this Court, as Plaintiffs clearly seek to do, removes this case **entirely** from arbitration. Doing so is entirely improper given the relief Starbucks seeks in its appeal and would allow Plaintiffs to unilaterally moot Defendants’ pending appeals.

Furthermore, allowing discovery to continue here also subjects both parties to conflict rulings regarding issues, including, among others, discovery. Once again, this issue is precisely the kind of issue that *Coinbase* recognized as problematic in this scenario. *See Coinbase*, 143 S. Ct. at 1920-21.

Thus, a stay of this action undoubtedly is necessary.

C. Even Applying South Carolina Law, an Automatic Stay Was Imposed When Defendants Filed Their Notices of Appeal.

⁶ This is precisely what Plaintiffs did initially with this dispute by filing it using the **same allegations** which Plaintiffs relied upon in their unfair labor charges filed with the National Labor Relations Board **before** they initiated this action.

Rule 241 of the SCACR provides that “service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order . . . and to automatically stay the relief ordered in the appealed order. . . .” Rule 241(a), SCACR. Starbucks (and Defendant Morris) filed their respective Notices of Appeal on September 22, 2023. This case is not one which involves any of the exceptions to Rule 241(a). *See* Rule 241(b), SCACR. Thus, the automatic stay from Rule 241(a) issued upon Defendants’ filing of their Notices of Appeal.⁷

Plaintiffs argue that a stay of this action is not necessary while Defendants’ appeals are pending. (Pls. Opp. at 5-6.) However, Plaintiffs cite ***no authority*** which obligates Starbucks (or Defendant Morris) to set forth any good cause or other showing for the stay from Rule 241(a) to apply. Indeed, the stay imposed by Rule 241(a) is an ***automatic*** stay. *See* Rule 241(a). Moreover, Plaintiffs have ***never*** filed any pleading seeking to remove that stay. Thus, Plaintiffs arguments in opposition to the imposition of a stay in this case are obviously an improper attempt to burden shift, and more importantly, are improper and entirely unsupported.

Even so, as outlined in Starbucks’ Motion and Section II.B, *supra*, a stay of this case is necessary while the respective appeals are pending. Starbucks appealed this Court’s order denying Defendants’ motions seeking to dismiss/compel arbitration. In seeking to compel arbitration, Starbucks argued that this Court is not the proper forum/venue for this dispute. Meaning that no part of this dispute – including discovery – should occur while this action is pending outside of arbitration.

⁷ It is entirely contradictory for Plaintiffs to argue that it is necessary to “follow ordinary rules concerning appeals” while also arguing that the automatic stay from SCACR 241(a) does not apply here. Indeed, based on the plain language of Rule 241 SCACR, the automatic stay from that “ordinary rule[] concerning appeals” applies here.

Contrary to Plaintiffs' arguments, the issue of conducting discovery was addressed or "decided" by this Court in its prior orders, the **same** orders which Starbucks and Defendant Morris appealed, because those orders ruled upon the Arbitration Agreement which **explicitly governs** discovery of this dispute.⁸ Clearly, conducting discovery (or seeking to compel discovery responses) in this Court would be improper if the South Carolina Court of Appeals determines that compelling this dispute to arbitration is proper. Accordingly, the issue of discovery is most certainly one of the "matters" addressed in this Court's prior order(s) and which could be impacted by the resolution of the pending appeals.

Moreover, for the reasons set forth in Section II.B, *supra*, staying this case is obviously proper as allowing Plaintiffs to litigate this case and conduct discovery while an appeal is pending which, if the appeal is successful, would remove this case **entirely** from this Court and its jurisdiction.

Critically, at least one South Carolina Circuit Court opinion demonstrates this is proper. (See March 29, 2006 Order, *Chassereau v. Global-Sun Pools, Inc.*, CA. No. 2003-CP-25-476, attached hereto as **Exhibit A**.) In *Chassereau*, then Circuit Judge Few held that staying a case, including discovery, while an appeal was pending concerning the arbitrability of the matter under the FAA was proper pursuant to South Carolina law and the FAA. In so holding, the Court stated that "[t]he general rule in South Carolina is that **discovery is stayed pending an appeal**" unless there is an order directing otherwise. (Ex. A at 1) (emphasis added).

⁸ Plaintiffs' argument that discovery was not an issue included on appeal is simply wrong as the Arbitration Agreement itself – *i.e.*, the agreement which is the centerpiece of the pending appeals – addresses discovery rules and requirements during arbitration. In other words, the underlying appeals involves the procedures for discovery, hence discovery is part of the underling appeals.

Similarly, the Court noted that the reason behind this practice is because of the precise predicament which is presented here that “continuation of the proceedings” in state court while the appeal is pending “largely defeats the point of the appeal and creates a risk of inconsistent handling of the case by two tribunals.” (*Id.* at 2.) This is the same conclusion from *Coinbase*. *Coinbase*, 143 S. Ct. at 1921. Thus, this Court concluded that no formal discovery was allowed until the final disposition of the appeal seeking to compel arbitration. (*Id.*)

This is precisely the conclusion that should be reached here. Indeed, the imposition of a stay in this case, including a stay of discovery, is obviously proper and is consistent with the general practices and procedures in South Carolina, contrary to Plaintiffs’ arguments otherwise. (See Ex. A.) Doing so is also proper given the plain language of the Arbitration Agreement. Moreover, Plaintiffs have presented ***no authority*** to support their claim that a stay should not issue here or has not previously issued pursuant to Rule 241(a), SCACR.

Plaintiffs incorrectly argue that Rule 62(a), SCRCRCP applies here. (Pls.’ Opp. at 5.) Rule 62(a) applies ***only*** to actions for injunctions, receiverships, or orders directing an accounting. Rule 62(a), SCRCRCP. This action involves none of those issues. In fact, the plain language of the rule makes clear that it is inapplicable here as it provides an exception to the automatic stay (set forth in Rule 241, SCACR) that ***only*** applies to “an interlocutory or final judgment in an action for an injunction . . . a receivership action . . . or a judgment or order directing an accounting.” *Id.*⁹ Rule 62(a) therefore is entirely irrelevant to – and cannot serve as a basis not to stay – this case.

⁹ Notably, this exception to the imposition of an automatic stay pending an appeal is merely a codification of the exception to the automatic stay imposed by Rule 241 of the SCACR. See Rule 241(b), SCACR.

The FAA undoubtedly applies to Starbucks' Motion and the Arbitration Agreement. However, even applying South Carolina law to this Motion, a stay of this case, including a stay of discovery, is necessary and proper. As such, this Court should stay of this action.

D. If the Court Does Not Find the Automatic Stay Applies, this Court Should Issue a Supersedeas Under SCACR 241.

In the alternative to seeking an order recognizing the imposition of the automatic stay from Rule 241, Starbucks asks this Court to issue a supersedeas under Rule 241, SCACR, **only** if this Court finds that the automatic stay from Rule 241 does not apply.

To obtain a supersedeas, a party must first seek that relief from a lower court before seeking it from the relevant appellate court. *See* Rule 241(d), SCACR. Contrary to Plaintiffs' arguments in their Opposition, there is **nothing** improper with Starbucks seeking this relief from this Court as the SCACR clearly provides that doing so is proper. (*Compare* Rule 241(d), SCACR, with Pls.' Opp. at 6.)

Moreover, this Court has discretion to issue a supersedeas under Rule 241 and may do so "to preserve the status quo pending the determination of the appeal . . . and to preserve to appellant the fruits of a meritorious appeal where they might otherwise be lost to him." *Graham v. Graham*, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (1990) (quoting 4A C.J.S. *Appeal & Error* § 662 at 494–95 (1957)) (alteration in original). As outlined above, there is great risk (to both parties) in allowing Plaintiffs to proceed with discovery and litigating the merits of this dispute in a forum which, pending the appellate court's decision, may be the improper forum/venue and in a court which may ultimately lack jurisdiction over this dispute.

Thus, in the alternative to issuing an order recognizing the automatic stay in effect, Starbucks asks this court to issue a supersedeas staying any further proceedings in this case.

E. Plaintiffs Should Not Be Permitted to Conduct Discovery and Compelling Defendants to Engage in Discovery While Defendants' Appeals are Pending is Improper.

Furthermore, Plaintiffs should not be permitted to (alternatively) conduct discovery pursuant to the rules in the Arbitration Agreement.¹⁰ (See Pls. Opp. at 10.) Doing so is obviously improper and directly contradictory to black-letter law pertaining to the FAA, South Carolina law, and the Arbitration Agreement. See Sections II.B, C, *supra*.

Indeed, the South Carolina Supreme Court, in *Sanders*, concluded that it was improper for a circuit court to compel discovery responses where the issue of arbitrability of a dispute was pending.¹¹ See *Sanders v. Savannah Highway Auto. Co.*, 440 S.C. 377, 392, 892 S.E.2d 112, 119 (2023), *reh'g denied* (Sept. 27, 2023). In *Sanders*, the Court vacated a trial court's prior order compelling discovery responses **while** the issue of arbitrability was pending on appeal. *Id.* In so doing, the Court recognized that conducting discovery while such an appeal was pending was improper, and further, that discovery was a matter for arbitration, not the circuit court, and should not be conducted in or compelled by the trial court where the issue of arbitrability was pending on appeal. See *e.g.*, *Id.*

Moreover, Plaintiffs cannot demonstrate that discovery in arbitration, should this dispute proceed to arbitration, would be as voluminous or duplicative as they argue in their Opposition. For example, Defendants could seek to dismiss one or more of Plaintiffs' claims before the

¹⁰ If this Court grants this request, the Court would be **enforcing** the Arbitration Agreement which it previously held was not enforceable. Doing so would moot **any opposition** that Plaintiffs have to the enforcement of the Arbitration Agreement and effectively concede that this dispute is arbitrable and governed by the Arbitration Agreement.

¹¹ This is true even in circumstances where parties seek to conduct limited discovery. *Est. of Owens by & through McCraw v. Fundamental Clinical & Operational Servs., LLC*, No. 2020-001107, 2023 WL 4618325, at *2 (S.C. Ct. App. July 19, 2023).

respective arbitrator, which means that one or both of Plaintiffs' claims may be dismissed **before** any discovery is conducted in arbitration. Thus, conducting discovery in this Court would be improper, and could potentially prejudice one or both of the Defendants (and possibly Plaintiffs) if discovery is conducted while the appeals are pending.

Accordingly, Plaintiffs should not be permitted to conduct **any** discovery while the appeals are pending. Therefore, this Court should deny Plaintiffs' alternative relief requested in their Opposition.

F. Starbucks' Objections to Plaintiffs' Discovery Requests are Proper.

Finally, Starbucks responses, *i.e.*, its objections, to Plaintiffs' discovery requests are proper. As outlined in Sections II.B,C, *supra*, a stay of discovery during an appeal is proper and common practice in South Carolina. This is true under both the FAA and South Carolina law.

Starbucks responded to Plaintiffs' initial discovery requests **after** Starbucks filed its Motion to Dismiss/Compel Arbitration. In responding to those requests, Starbucks noted that conducting discovery in this Court was improper in light of the Arbitration Agreement. Such an objection is obviously proper as the Arbitration Agreement provides that the parties agreed to litigate this dispute, including conducting discovery, through arbitration, not this Court.

Plaintiffs' attempt to paint Starbucks' objections to their discovery requests as improper is misleading and, quite frankly, disingenuous. Plaintiffs are obviously aware of Starbucks' position that arbitration, not this Court, is the only proper forum/venue for this dispute. Plaintiffs have been aware of this fact since the inception of this case as Starbucks (and Defendant Morris) raised this issue in its Answer, filed **more than three months before** Plaintiffs served their discovery requests.

Moreover, Plaintiffs' attempts to obtain further responses to their discovery requests **after** Starbucks began perfecting its appeal were obviously improper and accomplished **solely** for the

purposes of supporting their motion to compel, not for any actual proper purpose, since Plaintiffs were clearly aware that Starbucks was taking the necessary steps to appeal this Court's order denying the motions related to arbitration.

Even so, "[t]he general rule in South Carolina is that ***discovery is stayed pending an appeal***" unless there is an order directing otherwise. (Ex. A at 1) (emphasis added). This is precisely what Starbucks included in its responses to Plaintiffs' discovery requests. (See Ex. A to Pls.' Mot. to Compel.) Moreover, the FAA and South Carolina law clearly impose a stay (including a stay of discovery) while the issue of arbitrability is pending. Starbucks' appeal obviously involves the enforcement of the Arbitration Agreement – the very same agreement which explicitly governs discovery in this case – and therefore, conducting discovery (*i.e.*, responding to Plaintiffs' discovery requests) is improper during the pendency of the underlying appeals.

Thus, Starbucks' responses to Plaintiffs' discovery requests were proper at the time that those responses were provided to Plaintiffs. Moreover, they remain proper given the subject matter of Starbucks' appeal. Accordingly, this Court should deny Plaintiffs' motion to compel.

III. CONCLUSION

For the foregoing reasons and as further set forth in Starbucks' Motion and any oral arguments presented to the Court, Starbucks respectfully moves this Court for an Order recognizing that the automatic stay is in effect, staying any further proceedings, or, in the alternative, granting supersedeas to the same effect, and an order denying Plaintiffs' Motion to Compel.

Respectfully submitted,

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November 7, 2023

State of South Carolina

County of Anderson

) IN THE COURT OF COMMON PLEAS

)

) Case No.: 2022CO0402159

Skylar Blume, Virgil Dowis, Rhi Greer,
Jonathan Hudson, Natalie Mann, Mya
Ourada, Braden Terrill, & Aneil Tripathi,

Plaintiffs,

v.

Starbucks Corporation & Melissa Morris,

Defendants.

)
)
)
) **Memorandum in Opposition to Defendant**
) **Starbucks' Motion to Stay Proceedings**
) **Pending Appeal and in Support of**
) **Plaintiffs' Motions to Compel**
)
)

Respectfully Submitted,

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Dated: November 1, 2023

Plaintiffs hereby oppose Defendant Starbucks' Motion to Stay Proceedings. Over a year ago, Plaintiffs filed this lawsuit, seeking to remedy the harm to their reputations that resulted from Defendants' false statements accusing them of kidnapping and assault. In that time, Defendants have filed several unsuccessful motions: motions to dismiss on preemption grounds, to transfer the case to the Business Court, to compel arbitration, and to reconsider this Court's denial of their motions to compel arbitration.

Meanwhile, Plaintiffs have diligently sought discovery. They served their discovery requests in March 2023, following this Court's denial of Defendants' first motions to dismiss, but have received no substantive response to those requests. As a result, Plaintiffs were forced to file motions to compel their responses.

Now that Defendants' discovery responses are several months past due, Starbucks seeks to stay trial proceedings pending its appeal of this Court's denial of its motion to compel arbitration, potentially delaying discovery for another two to three years. Morris has not filed a similar motion, nor has Morris responded to Plaintiffs' discovery requests in any other way.

Starbucks asserts that a stay is "automatic" under Rule 241 of the South Carolina Appellate Court Rules. But on the plain text of that rule, it does not stay discovery here. The rule does not provide for a stay of an entire litigation, but rather only a stay of the specific "matters decided" and "relief ordered" in the order subject to appeal. Starbucks's motion is governed by the general rule under S.C. R. Civ. P. 62(a): "an interlocutory . . . judgment . . . shall not be stayed . . . during the pendency of an appeal."

Starbucks also argues—in contradiction to its reliance on Rule 241—that federal law governs its request for a stay. Specifically, Starbucks seeks a stay pursuant to a recent Supreme Court decision that interpreted a federal statute concerning appellate procedure in federal courts.

But federal procedural rules do not apply to the instant motion. Indeed, the South Carolina Supreme Court has repeatedly rejected the applicability of federal law to procedural issues concerning the appealability of arbitration orders. *See, Toler's Cove Homeowners Ass'n, Inc. v. Trident Const. Co., Inc.*, 355 S.C. 605, 611, 586 S.E.2d 581, 585 (2003); *Carolina Care Plan, Inc. v. United HealthCare Servs., Inc.*, 361 S.C. 544, 558, 606 S.E.2d 752, 759 (2005); *Henderson v. Summerville Ford-Mercury, Inc.*, 405 S.C. 440, 448, 748 S.E.2d 221, 225 (2013).

Nor should the Court accept Starbucks' claim that a stay is necessary to avoid mootting its claims. The South Carolina Supreme Court has rejected the same argument when raised by criminal defendants who are appealing an interim order denying claims that they are entitled to avoid prosecution. It would be inconsistent to hold that Starbucks' claim here, involving a significantly less weighty interest, would somehow be mooted by proceeding with litigation in this Court.

Starbucks offers no reason beyond the fact that its appeal involves a motion to compel arbitration why this Court should issue a stay. Because that is far from enough to support its request, this Court should deny Starbucks' motion.

As Starbucks has provided no other reason for failing to comply with its discovery obligations, and as Morris has provided *no* reason for doing so, this Court should grant Plaintiffs' motions to compel.

At a minimum, the Court should permit Plaintiffs to take the same discovery they are entitled to take under the arbitration agreements that Starbucks seeks to enforce. Such discovery cannot possibly prejudice Defendants.

I. RELEVANT BACKGROUND

Plaintiffs brought this suit in October 2022, alleging that Morris and Starbucks are liable for defamation and abuse of process under South Carolina law because they made a series of false statements about Plaintiffs, including filing a false police report accusing them of assault and kidnapping.

In December 2022, Starbucks filed a motion to dismiss, claiming that Plaintiffs' claims were preempted by the National Labor Relations Act. Defendant Morris filed a similar motion shortly after Starbucks' motion. Defendants separately filed a motion to transfer the case to the Business Court docket.

The Court held oral argument regarding Defendants' motions to dismiss, and denied both motions in February 2022. The Court also denied the motion to transfer to Business Court. Thereafter, Plaintiffs served discovery requests on both Defendants in March 2023.

On April 10, 2023, the day its responses were due, rather than respond substantively to Plaintiffs' discovery requests, Defendant Starbucks filed a motion to compel arbitration. Defendant Morris filed a similar motion on June 2, 2023. The Court heard oral argument regarding Defendants' motions, and denied those motions on July 18, 2023.

Plaintiffs' counsel contacted Defendants' counsel numerous times concerning their now significantly late responses to Plaintiffs' discovery requests. Defendants failed to respond to any of Plaintiffs' communications over nearly two months. As a result, Plaintiff was forced to file motions to compel against Defendants, which they did on September 22, 2023 as to Starbucks and October 18 as to Morris.

In the meantime, Defendants filed motions to reconsider this Court’s order denying their motions to compel arbitration, Starbucks on September 8, and Morris on September 11. This Court denied the order without a hearing or briefing on September 15.

On October 5, 2023 Defendant Starbucks filed a motion to stay proceedings. Morris has not sought a stay, nor has Morris responded in any other way to Plaintiffs’ discovery requests, which are now several months past due.

II. ARGUMENT

A. South Carolina law governs this motion, not the Federal Arbitration Act.

Starbucks says that the FAA “preempts state law” concerning arbitration, and that therefore it is entitled to an automatic stay pursuant to a recent Supreme Court recent decision interpreting the Federal Arbitration Act (FAA). That is wrong. The South Carolina Supreme Court has long held that the FAA does not preempt South Carolina’s “procedural rules” that “govern appealability of arbitration orders.” *Huskins v. Mungo Homes, LLC*, 439 S.C. 356, 363–64, 887 S.E.2d 534, 538 (S.C. Ct. App. 2022) (citing *Toler’s Cove Homeowners Ass’n, Inc. v. Trident Const. Co., Inc.*, 355 S.C. 605, 611, 586 S.E.2d 581, 585 (2003)). Indeed, since *Toler’s Cove*, the South Carolina Supreme Court has repeatedly reaffirmed this holding. *See Carolina Care Plan, Inc. v. United HealthCare Servs., Inc.*, 361 S.C. 544, 558, 606 S.E.2d 752, 759 (2005) (“This Court has held that the FAA does not preempt South Carolina state law in regard to procedural rules on the appealability of arbitration orders.”); *Henderson v. Summerville Ford-Mercury, Inc.*, 405 S.C. 440, 448, 748 S.E.2d 221, 225 (2013) (“The general rule is that the FAA

does not preempt state *procedural* law relating to arbitration.”). Thus, South Carolina law applies to the instant motion.

B. Under South Carolina law, a stay should not issue.

1. A stay is not required.

Pursuant to the South Carolina Uniform Arbitration Act (SCUAA), an appeal from an order denying a motion to compel arbitration “shall be taken in the manner and to the same extent as from orders or judgments in a civil action.” S.C. Code § 15-48-200(b). The SCUAA does not provide for an automatic stay of trial proceedings pending an appeal, nor does any other provision of South Carolina law. *See* S.C. Code § 15-48-200. To the contrary, the South Carolina Rules of Civil Procedure provide that the general rule is that no stay shall issue pending appeal. S.C. R. Civ. P. 62(a). Accordingly, Starbucks is not entitled to an automatic stay pending appeal.

In arguing otherwise, Starbucks misreads the South Carolina Appellate Court Rules. It claims that Rules 205 and 241 entitle it to an automatic stay. *See* Starbucks Br. 5. Not so. While Rule 205 clarifies that a notice of appeal gives the appellate court “exclusive jurisdiction over the appeal,” it also makes clear that “[n]othing in these Rules shall prohibit the lower court . . . from proceeding with matters not affected by the appeal.” S.C. App. Ct. R. 205. In other words, in this case, the South Carolina Court of Appeals has exclusive jurisdiction over the question presented by the appeal, whether this Court correctly denied Defendants’ motions to compel arbitration—and nothing more. And while Rule 241 provides for an automatic stay of any “matters decided” in an order and any “relief ordered in the appealed order, judgment, or decree or decision,” the only “matter” decided in this Court’s order denying Defendants’ motions to compel arbitration was their entitlement to compel arbitration. S.C. App. Ct. R. 241. And this Court’s order dismissing Defendants’ motions to compel did not order any “relief.”

Under Starbucks' reading of the rules, nearly every single appeal of an intermediate judgment in the South Carolina state courts would automatically stay all trial court proceedings in the case. The rules require no such extreme result.

2. A stay is not warranted.

Starbucks also urges this Court to exercise its discretion to issue a supersedeas pursuant to South Carolina Rule Appellate Court Rule 241 on the basis that its appeal will otherwise become moot. First, Starbucks once again misreads the South Carolina Appellate rules. Rule 241 only permits a writ of supersedeas to issue in cases that are excepted from the general rule requiring an automatic stay of relief under subsection (a) of Rule 241. S.C. App. Ct. R. 241(c). But because Starbucks does not even claim that any such exception applies here, it cannot seek a discretionary supersedeas pursuant to Rule 241(c). *See* S.C. App. Ct. R. 241(b) (listing exceptions).

In any event, proceeding to discovery and, possibly, to merits briefing in this Court will not moot the appeal because the enforceability of the arbitration agreements is separate from the merits of Plaintiffs' claims.

In one sentence and without any elaboration or explanation, Starbucks says that its appeal would be mooted "for each of the reasons the Supreme Court discussed in *Coinbase*." Starbucks Mot. at 6. This Court should not accept this cursory argument. As Starbucks provides no reason to distinguish its appeal from any other involving a motion to compel arbitration, its argument would require a stay in all intermediate appeals of orders denying motions to compel arbitration. In other words, granting Starbucks' motion on this basis would be the equivalent of simply applying *Coinbase* to South Carolina's procedural rules.

Coinbase does not apply to the instant motion. *Coinbase* was a statutory interpretation case concerning the text of Section 16(a) of the FAA, not the SCUAA and certainly not South Carolina's Rules of Appellate Procedure or of Civil Procedure. *See Coinbase, Inc. v. Bielski*, 599 U.S. 736, 143 S. Ct. 1915 (2023). Unlike the FAA, the SCUAA specifically provides that appeals pursuant to the statute are to follow ordinary rules concerning appeals, meaning that the ordinary rules concerning stays apply. *Compare* S.C. Code § 15-48-200 *with* 9 U.S.C. § 16.

Furthermore, the South Carolina Supreme Court has been clear that federal law concerning interlocutory appeals does not apply to intermediate appeals in South Carolina state courts. For example, *Coinbase* relied on caselaw providing for an automatic stay pending interlocutory appeals concerning double jeopardy and certain immunity claims in federal courts. *Coinbase*, 143 S. Ct. at 1920. These automatic stays issue in federal courts based on caselaw finding that continuing with proceedings when a party has raised a double jeopardy or immunity claim deprives them of the right they are seeking to vindicate: namely, not proceeding with litigation in federal court. *See, e.g., Apostol v. Gallion*, 870 F.2d 1335, 1338 (7th Cir. 1989) (applying automatic stay pending interlocutory appeal of an order denying qualified immunity); *Stewart v. Donges*, 915, F.2d 572, 576 (10th Cir. 1990) (noting that non-frivolous interlocutory appeals of double jeopardy and qualified immunity orders automatically stay trial proceedings).

However, the South Carolina Supreme Court has rejected that analysis. Under South Carolina law, criminal defendants do not even have the right to an intermediate appeal in similar scenarios. For instance, in *State v. Miller*, the South Carolina Supreme Court held that “an order denying a double jeopardy claim is not immediately appealable.” *State v. Miller*, 289 S.C. 426, 427, 346 S.E.2d 705, 706 (S.C. 1986). In reaching that conclusion, the Court explicitly parted ways with the United States Supreme Court's analysis and holding regarding the exact same

issue. The United States Supreme Court had previously held that orders denying double jeopardy claims are immediately appealable because, in its view, the constitutional right against re-prosecution would be “significantly undermined if appellate review of double jeopardy claims were postponed until after conviction and sentence.” *Abney v. United States*, 431 U.S. 651, 660 (1977). The South Carolina Supreme Court declined to adopt the same analysis, noting that the U.S. Supreme Court’s decisions on this issue involved a federal statute “and have no application to state court appeals.” *Miller*, 289 S.C. at 427, 346 S.E.2d at 706. The South Carolina Supreme Court reaffirmed that holding in *State v. Rearick*, rejecting the argument that *Miller* conflicted with *Abney*. 417 S.C. 391, 396–405, 790 S.E.2d 192, 195–99 (S.C. 2016).

Similarly, in *State v. Isaac*, the South Carolina Supreme Court held that there can be no intermediate appeal of an order denying a criminal defendant’s request for immunity from prosecution under the Protection of Persons and Property Act. *State v. Isaac*, 405 S.C. 177, 182, 747 S.E.2d 677, 679 (S.C. 2013). In so holding, the Court noted that it would be “illogical” to treat a statutory immunity claim more generously than it does double jeopardy claims, which are of course “constitutionally based.” *Id.* 405 S.C. at 184, 747 S.E.2d at 680.

Significantly, in cases involving Protection of Persons and Property Act immunity claims or double jeopardy claims, proceeding with the underlying criminal prosecution does not moot the defendants’ claims. *See, e.g., State v. Brandt*, 393 S.C. 526, 536–41, 713 S.E.2d 591, 596–99 (S.C. 2011) (affirming on the merits trial court’s denial of criminal defendant’s pretrial motion to dismiss charges on double jeopardy grounds); *State v. Glenn*, 429 S.C. 108, 112, 838 S.E.2d 491, 493 (2019) (reversing trial court’s denial of immunity from prosecution under the Protection of Persons and Property Act following criminal defendant’s conviction).

Nor does it here. Especially not where the claim at issue, involving a contractual provision purportedly providing a right to proceed in an alternative forum, is considerably less weighty than a criminal defendant's right against being subject to prosecution at all.

Nor do "each of the reasons the Supreme Court discussed in *Coinbase*" even apply to this case. For example, the Court expressed particular concern with the "potential for coercion" of settlement "in class actions." *Coinbase*, 143 S. Ct. at 1921. But this case is not a class action, nor is it credible that Starbucks, a multibillion-dollar corporation with thousands of stores across the country, is being coerced into anything by merely litigating a single case involving a handful of plaintiffs in this Court. Particularly given that the alternative would not be dismissal of the claims but proceeding to arbitration (and potentially *eight* individual arbitrations) which would involve considerable additional cost to all parties. *See* Starbucks Mot. to Compel Arb. Ex. C (noting that covered claims "will be arbitrated only on an individual basis).

In contrast, a stay will substantially prejudice Plaintiffs. Over a year has already passed since Plaintiffs filed this suit and *no* discovery has commenced. If Plaintiffs are forced to wait until the conclusion of Defendants' appeal, another two to three years could easily pass before a single document is produced. Meanwhile, the harm to Plaintiffs' reputations caused by the filing of a false police report accusing them of kidnapping and assault will remain unremedied.

* * *

In short, *Coinbase*'s interpretation of a federal statute and analysis of federal law concerning appellate procedure in federal courts has no application to this Court's consideration of the instant motion. This Court is bound by South Carolina Supreme Court precedent holding that South Carolina's procedural rules apply, which it must apply consistent with South Carolina

precedent about those rules, which is different from caselaw concerning appellate procedures in federal courts. Under South Carolina law, no stay should issue in this case.

As neither Defendant has asserted any other reason for their failure to respond to Plaintiffs' discovery requests, this Court should grant Plaintiffs' motions to compel.

C. In the alternative, this Court should permit discovery consistent with the arbitration agreements and against Morris.

In the alternative, the Court should permit Plaintiffs to take at least the same discovery that they are entitled to take under the arbitration agreements that Starbucks seeks to enforce.

Those agreements provide for the following discovery:

- 25 interrogatories;
- 25 requests for production of documents;
- Two eight-hour days of depositions of non-expert witnesses;
- One expert deposition.

See Starbucks Mot. to Compel Arb. Ex. C.

No prejudice to Starbucks could result from this limited discovery, as the company would be required to comply with such discovery requests no matter the outcome of its appeal. Indeed, if this case proceeded to eight individual arbitrations, Starbucks would be required to comply with eight times as many such discovery requests.

Furthermore, Morris has not sought a stay. Accordingly, the Court should grant Plaintiffs' motion to compel as to Morris.

CONCLUSION

For the foregoing reasons, Defendant Starbucks' motion to stay the proceedings pending its appeal should be denied and Plaintiffs' motions to compel discovery against Defendants should be granted.

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Date: November 1, 2023

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS

CASE No.: 2022-CP-04-02159

Skylar Blume, Virgil Dowis, Rhi Greer,
Jonathan Hudson, Natalie Mann, Mya
Ourada, Braden Terrill, & Aneil Tripathi,

Plaintiffs,

Vs.

MOTION TO COMPEL

Starbucks Corporation & Melissa Morris,

Defendants.

TO: DEFENDANT MELISSA MORRIS AND her ATTORNEYS:

YOU WILL PLEASE TAKE NOTICE that the undersigned attorney for the Plaintiffs, pursuant to RULE 37 of the SOUTH CAROLINA RULES OF CIVIL PROCEDURE, will move the Court for an Order compelling Defendant Morris to comply with its discovery obligations and fully respond to Plaintiffs' discovery requests in the above-titled action. The Motion is based on Defendant's refusal to respond to any discovery requests served by Plaintiff. Plaintiff bases this motion on the following:

1. On March 9, 2023, Plaintiffs served Plaintiffs' First Set of Discovery Requests to Defendant Morris (Ex. A- Discovery Requests & Certificate of Service). These requests included interrogatories and requests for production.
2. Defendant Morris has not substantively responded to these requests in any way.
3. On September 1, 2023, Plaintiffs' counsel sent an email to counsel for both Defendant's requesting discovery responses.
4. On September 15, Plaintiffs' counsel again reached out seeking discovery

responses from Defendant Morris. None have ever been produced.

Plaintiffs' First Set of Discovery Requests are the initial requests sent and seek information relevant to the case in question. They include the standard interrogatories provided by RULE 33 of the SOUTH CAROLINA RULES OF CIVIL PROCEDURE, additional relevant interrogatories pursuant to RULE 33, and requests for the production of documents pursuant to RULE 34. The responses were due within 30 days, on April 8, 2023. However, Morris failed to respond over seven months after the requests were served.

WHEREFORE, the Plaintiffs respectfully request this Court to compel Defendant Morris to provide prompt and complete responses to the discovery, on a date the Court believes is appropriate, attorney's fees and cost, and such further relief the Court may find just and reasonable.

Respectfully Submitted,

s/Matthew R. Ozment
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October 18, 2023

Exhibit A

State of South Carolina	)	IN THE COURT OF COMMON PLEAS
	)	
County of Anderson	)	Case No.: 2022-CP-04-02159
Skylar Blume, Virgil Dowis, Rhi Greer,	)	
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, & Aneil Tripathi,	)	
	)	
Plaintiffs,	)	
v.	)	
	)	
Starbucks Corporation & Melissa Morris,	)	
	)	
Defendants.	)	

**PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS TO DEFENDANT
MORRIS**

Pursuant to Rules 26(b), 33, 34, and 36 of the South Carolina Rules of Civil Procedure (SCRCP), Plaintiffs request that Defendant Morris respond to the following discovery requests within thirty days of service. Responses should be made to Plaintiffs' counsel Matt Ozment at matt@go-lawyers.com and Daniel Rosenthal at dmrosenthal@jamhoff.com or through other means agreed by the parties.

1. "Anderson Starbucks" means the Starbucks store located at 3556 Clemson Blvd, Anderson, SC 29621.
2. "Documents" shall be construed as synonymous in meaning and equal in scope to the phrase "documents or electronically stored information," as used in SCRCP 34(a)(1).
3. "Identify" means, with respect to a person and unless otherwise specified herein, to provide as applicable the person's full name, present or last known address, and occupation, title, and business affiliation for the person's present or last known position of employment.
4. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The word "including" shall be

construed to mean without limitation. The word “any” means “each and every” as well as “any one.” The word “each” shall be understood to include “every.” The use of the past tense includes the present tense and the use of the present tense includes the past tense so as to make the statement inclusive rather than exclusive. The singular includes the plural and vice versa. Masculine, feminine, and neuter nouns and pronouns shall include one another, as appropriate.

INSTRUCTIONS

1. Please respond to these requests in accordance with Rules 33, 34, and 36.
2. Unless otherwise stated, the time period for these requests is August 1, 2022, to the present.
3. All requests are continuing in nature. Please supplement responses promptly if you discover relevant information.
4. If you withhold any requested document on the basis of privilege, please so state, and for each document provide:
 - a. The nature of the privilege(s) claimed;
 - b. The form in which the information or document exists;
 - c. The general subject matter of the material;
 - d. The date of the document; and
 - e. Each and every fact on which your claim of privilege is based.

REQUESTS FOR PRODUCTION

1. All documents, including written communications, concerning the drafting, revision, and publication of the August 8, 2022 statement published on One.Starbucks.com titled “Treating One Another with Respect,” and any subsequent updates or additions to that statement.
2. All documents, including written communications, concerning the email that

Kevin Kraham sent to Michael Schoenfeld on August 1, 2022, as referenced in paragraphs 31 to 33 of Plaintiffs' complaint.

3. All documents, including written communications, concerning the drafting, revision, and publication of any other statements Starbucks or Morris made publicly or to third parties about plaintiffs or the events of August 1, 2022, including any oral statements.

4. All documents, including written communications, relating to the conversation that you had with Nicole Davis on August 1, 2022.

5. All other documents, including written communications, concerning the incident that occurred at the Anderson Starbucks on August 1, 2022, as described in paragraphs 20 to 26 of Plaintiffs' Complaint.

6. All documents, including written communications, concerning the police report that you filed on August 3, 2022.

7. All documents, including written communications, concerning the police investigation arising from your report.

8. All documents, including written communications, concerning any request for an arrest warrant arising from your police report.

9. All documents, including written communications, concerning any investigation Starbucks conducted into Plaintiffs as a result of the incident at the Anderson Starbucks on August 1, 2022.

10. All documents, including written communications, concerning the decision to place Plaintiffs on leave from their job and ban them from all Starbucks stores as a result of the incident at the Anderson Starbucks on August 1, 2022.

11. All documents, including written communications, concerning any video of the

August 1, 2022 incident.

12. All documents, including written communications, concerning any journalists' inquiries about the events of August 1, 2022 or Starbucks' or your response to those events.

13. All emails, text messages, or other electronic communications sent or received by you, from August 1, 2022, to present, that match the following search terms: "Skylar," "Blume," "Virgil," "Dowis," "Rhi," "Greer," "Hudson," "Jon," "Natalie," "Mann," "Mya," "Ourada," "Braden," "Terrill," "Aneil," "Tripathi," "police," "sheriff*," "investigat*," "assault," "kidnap*," "lawsuit," "defamation," "libel," "slander," "threat*," "abus*," "belligerent," "ban*," AND "suspen*"

14. Telephone records showing calls to and from employees of Starbucks, or their agents, between August 1, 2022 to August 8 2022.

15. Any policies that Morris was given by Starbucks related to contacting the police about incidents that occur at Starbucks stores.

16. All written communications related to this litigation with Starbucks or its agents.

17. All documents, including written communications, you intend to use in your defense or in support of any of your affirmative defenses.

18. All documents, including written communications, referenced in or relied upon to answer Plaintiffs' First Set of Interrogatories.

19. All documents, including written communications, relating to any liability insurance coverage that is applicable to the instant litigation.

20. All documents subpoenaed or requested from third parties that relate to this lawsuit.

21. All documents, including written communications, that you may use to support

any claim or defense in this lawsuit.

22. Any joint defense or common interest agreement that relates to this lawsuit.
23. Any agreement between you and Starbucks entered into since August 1, 2022.

STANDARD INTERROGATORIES

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.
2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.
3. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.
4. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.
5. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses (and not merely topics).

ADDITIONAL INTERROGATORIES

6. Identify all communications or conversations between you and any agent or employee of Starbucks regarding the events of August 1, 2022, your police report, the request for arrest warrants, or the issuance of any public statements or statements to third parties about those events. For each such communication or conversation, identify the name of the

individuals involved, the subject matter, and the approximate date and time of the communication.

7. Describe in detail any policies you were made aware of while working for Starbucks related to contacting the police about incidents that occur at Starbucks stores. The time period of this interrogatory begins on the date you started working for Starbucks.

8. If you have ever been arrested, list the date of the arrest, the name of the jurisdiction conducting the arrest, the nature of the charges and the disposition of the charges.

9. If Morris has ever been involved in any type of litigation, civil or criminal, whether as a plaintiff or defendant, please state the full title of each suit, the court in which the action was instituted, the number of the action, the nature and extent of the injury or damage, and the disposition of the action. If Morris has not been involved in any type of litigation, please state "None."

10. List all email addresses, mobile phone numbers, and mobile phone service providers Morris has had from August 1, 2022 until the present.

11. List every "Social Networking Website" (SNW) utilized or accessed by Morris for the past three (3) years. For any SNW identified in response to this or any other interrogatory, provide the following information:

- a. name and internet address of the SNW;
- b. each and every user name, screen name, email address, or alias affiliated with the SNW account;
- c. full URL to each SNW profile;
- d. the last time the party accessed the SNW account; and whether the party posts photographs and "updates" on the SNW account since August 1, 2022.

Respectfully submitted,

GROVE OZMENT LLC


Matthew R. Ozment (SC Bar 80072)

Email: Matt@go-lawyers.com

100 Williams Street

Greenville, South Carolina 29601

Tel: (864) 516-2222

ATTORNEY FOR PLAINTIFFS

March 1, 2023

State of South Carolina) IN THE COURT OF COMMON PLEAS
County of Anderson) Case No.: 2022-CP-04-02159

Skylar Blume, Virgil Dowis, Rhi Greer,)
Jonathan Hudson, Natalie Mann, Mya)
Ourada, Braden Terrill, & Aneil Tripathi,)
Plaintiffs,)
v.)
Starbucks Corporation & Melissa Morris,)
Defendants.)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the following documents: PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS TO DEFENDANT MORRIS were served via U.S. Mail and electronic mail on March 9, 2023, to Defendants' counsel as follows:

Reginald W. Belcher
Turner Padget
110 E Court St, Suite 201
PO Box 1473
Columbia, SC 29202
rbelcher@turnerpadget.com



Matthew R. Ozzment

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON) TENTH JUDICIAL CIRCUIT

Skylar Blume, Virgil Dowis, Rhi Greer,	)	Civil Action No. 2022-CP-04-02159
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, & Aneil	)	
Tripathi,	)	
	)	
	)	MOTION OF DEFENDANT
	)	STARBUCKS CORPORATION
Plaintiff,	)	TO ACKNOWLEDGE THE
	)	AUTOMATIC STAY APPLIES
vs.	)	OR, IN THE ALTERNATIVE,
	)	FOR SUPERSEDEAS
Starbucks Corporation & Melissa Morris	)	
	)	
Defendants.	)	
	)	

Pursuant to the automatic stay provisions and other supersedeas/stay provisions set forth in Rule 241, SCACR, Defendant Starbucks Corporation (“Starbucks”) moves this Court for an Order acknowledging that the automatic stay is in effect, staying all further judicial proceedings, or, in the alternative, granting supersedeas/stay regarding further judicial proceedings in this case.

PROCEDURAL HISTORY

On April 7, 2023, Starbucks moved to dismiss, or in the alternative, compel arbitration, and prior to doing so, Starbucks raised the issue of arbitration in its Answer to Plaintiffs’ Complaint which Starbucks timely filed on December 23, 2022. On June 2, 2023, co-defendant Melissa Morris (“Morris”) also moved to dismiss, or in the alternative, compel arbitration. On June 14, 2023, the Court held a hearing on these motions. The Court issued a Form 4 Order on July 18, 2023 directing Plaintiffs’ counsel to prepare a formal order denying Defendants’ motions. The Court entered its formal Order denying the motions on September 1, 2023. Starbucks timely moved to reconsider the Court’s September 1st Order on September 8, 2023, and Morris likewise timely moved to reconsider the September 1st Order on September 11, 2023. These motions were

both denied via a Form 4 Order dated September 15, 2023. On September 22, 2023, Starbucks and Morris both timely filed notices of appeal of these Orders.

ARGUMENT

The Defendants' appeals from the Court's Orders are proper and, under applicable law, require a stay of all proceedings in this case. Under Section 16 of the governing Federal Arbitration Act ("FAA"), an appeal may be taken from an order denying arbitration. *Towles v. United HealthCare Corp.*, 338 S.C. 29, 34–35, 524 S.E.2d 839, 842 (Ct. App. 1999) (finding that the circuit court's order refusing to compel arbitration was immediately appealable, citing section 16 of the FAA). Starbucks and Morris have both instituted such appeals. Therefore, under the Supreme Court's June 23, 2023 precedent in *Coinbase*, this Court "must stay its proceedings." *Coinbase, Inc. v. Bielski*, 143 S. Ct. 1915, 1918 (2023) (citing *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982)).

South Carolina law, while displaced by the FAA, is in accord. Rule 241 of the South Carolina Appellate Court Rules provides that "[a]s a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision," subject to exceptions inapplicable here. Rule 241(a), SCACR. Furthermore, in the alternative, Rule 241 authorizes this Court to grant a supersedeas to "suspend or stay the matters decided in the order, judgment, decree or decision on appeal" Rule 241(c), SCACR.

Accordingly, this Court should enter an order staying the trial court proceedings pending appeal, or in the alternative, a supersedeas order to the same effect.

I. Under the FAA and Recent Supreme Court Precedent, This Court Must Automatically Stay Its Proceedings.

A. The FAA Governs the Arbitration Agreement Here and Preempts State Law.

As the U.S. Supreme Court has held, federal substantive law preempts state law and controls arbitration issues arising under contracts governed by the FAA. *Preston v. Ferrer*, 552 U.S. 346, 349-50 (2008). The FAA applies to the arbitration agreement here because it “‘evidenc[es] a transaction involving commerce,’ specifically interstate commerce.” *Towles*, 338 S.C. at 35 (quoting 9 U.S.C. § 2 (1999)); *see also Cape Romain Contractors, Inc. v. Wando E., LLC*, 405 S.C. 115, 121, 747 S.E.2d 461, 464 (2013) (holding that arbitration agreement affected interstate commerce and thus was “subject to the FAA”).

Each Arbitration Agreement states that “[e]xcept as otherwise indicated above, this agreement shall be enforceable under and subject to the Federal Arbitration Act, 9 U.S.C. Sections 1 *et seq.*” (See Arbitration Agreements, Ex. C to Starbucks’ Motion to Dismiss.) Under the FAA, “arbitration is a matter of contract, and courts must enforce arbitration contracts according to their terms.” *Henry Schein, Inc. v. Archer & White Sales, Inc.*, 139 S. Ct. 524, 529 (2019)); *see also Airbnb, Inc. v. Doe*, 336 So. 3d 698, 703 (Fla.), cert. denied, 143 S. Ct. 484 (2022) (“The parties agree that issues of arbitrability are governed by the FAA, as required by the contract.”).

Furthermore, Starbucks unquestionably is engaged in interstate commerce. Starbucks owns and operates thousands of retail coffee shops throughout the United States, where it sells coffee and related products to its customers. (Braislin Decl. at ¶ 3, Ex. A to Starbucks’ Motion.) Moreover, Starbucks purchases goods from multiple states and transports goods across state lines for ultimate sale to its customers through its retail locations. (Braislin Decl. at ¶ 3.) “The presence of interstate commerce makes the FAA applicable to the present arbitration agreement,” and “the FAA preempts” South Carolina law. *Soil Remediation Co. v. Nu-Way Env’t, Inc.*, 323 S.C. 454, 461, 476 S.E.2d 149, 153 (1996). Finally, Plaintiffs have **never** contested the application of the FAA to the Arbitration Agreement or argued that it does not apply here.

B. Under Federal Law, this Court Must Automatically Stay Further Proceedings.

Under Section 16 of the FAA, Starbucks and Morris were entitled to an immediate appeal from the Order. 9 U.S.C. § 16(a). On September 22, 2023, each filed a timely notice of appeal. Now, any further proceedings in this Court are subject to an automatic stay.

In June of this year, the U.S. Supreme Court held that a trial court must stay further proceedings during the pendency of an interlocutory appeal on the question of arbitrability. *Coinbase*, 143 S. Ct. at 1919. This ruling is consistent with long-standing Supreme Court precedent holding that a trial court lacks jurisdiction over issues pending before the governing appellate court. *See Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982).

As the Supreme Court explained in *Coinbase*, because the question on appeal is “whether the case belongs in arbitration or instead in the [trial] court,” “the entire case is essentially ‘involved in the appeal’” such that trial court proceedings must be stayed. *Coinbase*, 143 S. Ct. at 1919 (quoting *Griggs*, 459 U.S. at 58). The appellate court must decide “whether ‘the litigation may go forward in the [trial] court.’” *Coinbase*, 143 S. Ct. at 1919 (quoting *Bradford-Scott Data Corp. v. Physician Comput. Network, Inc.*, 128 F.3d 504, 506 (7th Cir. 1997) (Easterbrook, J)). Thus, it “makes no sense for trial to go forward while the court of appeals cogitates on whether there should be one.” *Id.* (quoting *Apostol v. Gallion*, 870 F.2d 1335, 1338 (7th Cir. 1989)).

Absent an automatic stay, Congress’s decision to afford a right in the FAA to an interlocutory appeal “would be largely nullified.” *Coinbase*, 143 S. Ct. at 1921. Parties would be forced to proceed with trial court proceedings they had contracted to avoid via arbitration, and “many of the asserted benefits of arbitration (efficiency, less expense, less intrusive discovery, and the like) would be irretrievably lost—even if the court of appeals later concluded that the case actually had belonged in arbitration all along.” *Id.* Such an outcome “could potentially force

parties to settle to avoid [trial] court proceedings (including discovery and trial) that they contracted to avoid through arbitration.” *Id.* Moreover, allowing the trial court to proceed would “create[] the possibility that the [trial] court will waste scarce judicial resources—which could be devoted to other pressing criminal or civil matters—on a dispute that will ultimately head to arbitration in any event.” *Id.*

Stated succinctly, continuing trial court proceedings while arbitrability is pending on appeal “largely defeats the point of the appeal.” *Coinbase*, 143 S. Ct. at 1921 (quoting *Bradford-Scott*, 128 F.3d at 505). Accordingly, this Court “must stay its proceedings.” *Id.* at 1918.

Starbucks respectfully requests that the Court issue an Order acknowledging that the automatic stay is in effect and that all further proceedings in this Court are stayed pending the resolution of the appeals.

II. South Carolina State Law is in Accord.

Because the FAA applies, federal law preempts state law here. But even if state law applied, South Carolina law is in accord with the *Coinbase* directive to grant a stay of trial court proceedings during the pendency of an appeal as to issues of arbitrability.

Rule 205 of the South Carolina Appellate Court Rules provides that, upon service of the notice of appeal, “the appellate court shall have exclusive jurisdiction over the appeal” and all matters “affected by the appeal.” Rule 205, SCACR. Correspondingly, Rule 241 provides that, “[a]s a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision,” and that “[t]his automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court, the administrative tribunal, appellate court, or judge or justice of the appellate court.” Rule 241,

SCACR. None of the exceptions to this general rule enumerated in subsection (b) to Rule 241 apply here. Thus, even if South Carolina law applied, this Court should enter an order staying proceedings during the pendency of the interlocutory appeals.

Furthermore, the Court also has discretion to issue a supersedeas under Rule 241. A supersedeas should be used to “stay proceedings in the [circuit] court, to preserve the status quo pending the determination of the appeal . . . and to preserve to appellant the fruits of a meritorious appeal where they might otherwise be lost to him.” *Graham v. Graham*, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (1990) (quoting 4A C.J.S. *Appeal & Error* § 662 at 494–95 (1957)) (alteration in original). In ruling on a motion for supersedeas, the “court should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot.” Rule 241(c)(2), SCACR. For each of the reasons the Supreme Court discussed in *Coinbase*, proceeding with discovery and litigating the merits of the case would moot the contested issues on appeal entirely.

CONCLUSION

For the foregoing reasons, Starbucks respectfully moves this Court for an Order that the automatic stay is in effect, staying any further proceedings, or, in the alternative, granting supersedeas to the same effect.

Consultation regarding this Motion would serve no useful purpose. Starbucks reserves the right to file a further supplemental memorandum supporting this motion.

[Signature on following page.]

Respectfully submitted, this 5th day of October, 2023.

LITTLER MENDELSON, P.C.

/s/ William H. Foster

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Attorneys for Defendant Starbucks Corporation

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS

CASE No.: 2022-CP-04-02159

Skylar Blume, Virgil Dowis, Rhi Greer,
Jonathan Hudson, Natalie Mann, Mya
Ourada, Braden Terrill, & Aneil Tripathi,
Plaintiffs,

Vs.

Starbucks Corporation & Melissa Morris,
Defendants.

MOTION TO COMPEL

TO: DEFENDANT STARBUCKS CORPORATION AND THEIR ATTORNEYS:

YOU WILL PLEASE TAKE NOTICE that the undersigned attorney for the Plaintiffs, pursuant to RULE 37 of the SOUTH CAROLINA RULES OF CIVIL PROCEDURE, will move the Court for an Order compelling Defendant Starbucks Corporation to comply with its discovery obligations and fully respond to Plaintiff's discovery requests in the above-titled action. The Motion is based on Defendant's refusal to respond to any discovery requests served by Plaintiff. Plaintiff bases this motion on the following:

1. On March 9, 2023, Plaintiffs served Plaintiff's First Set of Discovery Requests to Defendant Starbucks (Ex. A- Discovery Requests & Certificate of Service). These requests included interrogatories and requests for production.
2. On April 10, 2023, Defendant Starbucks submitted a response to the requests. Starbucks refused to provide any response to any of Plaintiffs' discovery requests based on its pending motion to dismiss this action and to compel arbitration. (Ex. B- Starbucks' Responses).

3. The Court denied Starbucks's Motion Dismiss on July 18, 2023, in a Form 4 Order. (Ex. C- Form 4 Order). The Court issued a full written Order on September 1, 2023.
4. On July 26, 2023, Plaintiff's counsel sent an email to Starbucks's counsel asking for discovery responses within 14 days. On September 1, 2023, Plaintiff's counsel again sent an email to Starbucks's counsel requesting discovery responses. None have ever been produced.
5. Finally, on September 15, 2023, Plaintiffs' counsel again emailed counsel for Defendants asking for discovery responses and stating that this motion would be filed absent a response. No response was ever given.

Plaintiffs' First Set of Discovery Requests are the initial requests sent and seek information relevant to the case in question. They include the standard interrogatories provided by RULE 33 of the SOUTH CAROLINA RULES OF CIVIL PROCEDURE, additional relevant interrogatories pursuant to RULE 33, and requests for the production of documents pursuant to RULE 34. The responses were due within 30 days, on April 8, 2023. However, Starbucks failed to respond over six months after the requests were served.

WHEREFORE, the Plaintiffs respectfully request this Court to compel Defendant Starbucks to provide prompt and complete responses to the discovery, on a date the Court believes is appropriate, attorney's fees and cost, and such further relief the Court may find just and reasonable.

Respectfully Submitted,

s/Matthew R. Ozment
Matthew R. Ozment, S.C. Bar No. 80072

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Appearing Pro Hac Vice

September 22, 2023

Exhibit A

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL DISTRICT

Skylar Blume, Virgil Dowls, Rhi Greer,
Jonathan Hudson, Natalie Mann, Mya
Ourada, Braden Terrill. & Aneil Tripathi,

Civil Action No. 2022-CP-04-02159

Plaintiff,

vs.

Starbucks Corporation & Melissa Morris,
Defendants.

**DEFENDANT STARBUCKS
CORPORATION'S RESPONSES TO
PLAINTIFF'S FIRST SET OF REQUESTS
FOR PRODUCTION, STANDARD
INTERROGATORIES, and ADDITIONAL
INTERROGATORIES**

TO: MATTHEW R. OZMENT, ATTORNEY FOR PLAINTIFFS

Defendant Starbucks Corporation ("Starbucks" or "Defendant"), through its undersigned counsel and pursuant to Rules 26, 33, and 34 of the South Carolina Rules of Civil Procedure, provides its responses to Plaintiffs' Requests for Production of Documents, Standard Interrogatories, and Additional Interrogatories (the "Requests") and does so solely to comply with the obligations set forth in the South Carolina Rules of Civil Procedure. Nothing herein shall be construed as a waiver of Defendant's right to arbitrate this dispute or as a concession or admission by Defendant that this Court is the proper forum for this dispute. Defendant responds as follows:

GENERAL OBJECTIONS AND LIMITATIONS ON RESPONSES

In addition to any specific objections or limitations stated below in Defendant's Responses to Plaintiffs' Requests, Defendant incorporates the following objections and limitations into each of its responses below:

1. Defendant objects to Plaintiffs' Requests as having been served in an improper forum. Plaintiffs entered into a valid, mandatory arbitration agreement with Defendant which provides that Plaintiffs agreed to submit any disputes concerning their employment with Starbucks

to final, binding arbitration. This dispute is undoubtedly governed by the applicable arbitration agreement; as such, Defendant objects to Plaintiff's attempt to require Defendant to participate in discovery in an improper forum. Defendant does not intend to waive, and is not waiving, its right to arbitrate this dispute by providing these responses, nor shall Defendant's response to the Requests be construed as an admission by Defendant that this Court is the proper forum for this dispute.

2. Defendant furnishes these responses to Plaintiffs' Requests in accordance with the South Carolina Rules of Civil Procedure. To the extent that any one of Plaintiffs' discovery requests seeks to impose obligations that exceed Defendant's obligations under the applicable rules and/or court orders, Defendant objects to the request.

3. Defendant objects to Plaintiffs' Requests that seek information protected from disclosure by the attorney-client privilege, the work product protection, or any other privilege, doctrine or rule recognized in this jurisdiction.

4. Defendant objects to Plaintiffs' Requests to the extent that they seek to require Defendant to produce any documents or other tangible things prepared or obtained in anticipation of litigation or for trial or such information, documents, or other tangible things disclosing mental impressions of counsel or counsel's conclusions, opinions, memoranda, notes or summaries, legal research or legal theories.

5. Defendant reserves the right to claim any applicable privilege or protection with respect to its responses to Plaintiffs' Requests provided by Defendant in these responses that may otherwise qualify for such privilege or protection is not intended and does not constitute a waiver of that privilege or protection.

6. Defendant objects to Plaintiffs' Requests that seek information beyond the temporal scope of discovery appropriate to this case on the grounds that such discovery requests are overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

7. Defendant objects to Plaintiffs' Requests that seek information that is a matter of public record, which has already been disclosed or otherwise produced in connection with this matter or is as equally available to Plaintiffs as to Defendant.

8. Defendant objects Plaintiffs' Requests that seek disclosure of information that is not in Defendant's possession, custody or control.

9. By furnishing answers and responses to Plaintiffs' Requests, Defendant does not concede that the information requested or disclosed is relevant to the subject matter of the proceeding or that any information will be admissible at trial or any other proceeding or written submission. To that end, Defendant expressly reserves the right to object to any supplemental discovery requests on the subjects addressed herein. Furthermore, Defendant reserves the right to object to the introduction into evidence of any answer or a portion of any answer or information provided.

10. Defendant submits its responses without conceding the relevancy, materiality, or admissibility of any documents or other information produced, and without prejudice to its right to object to further discovery or to the admissibility of any evidence during any subsequent proceeding.

11. Defendant objects to the use of any of the documents or other tangible things identified herein for any purpose other than the proceedings and trial of this matter.

12. Defendant objects to Plaintiffs' Requests to the extent that they seek to require Defendant to respond on behalf of any other entity or person.

13. Defendant objects to Plaintiffs' Requests to the extent that they seek to require Defendant to provide information other than that which may be obtained through a reasonably diligent search of its own records.

14. Defendant reserves the right to modify, clarify or supplement its responses and/or to produce additional responsive documents as desired and/or in the event the Court denies Defendant's Motion to Dismiss and Compel Arbitration and as required during the course of discovery and prior to trial.

RESPONSES TO PLAINTIFF'S REQUESTS FOR PRODUCTION

1. All documents, including written communications, concerning the drafting, revision, and publications of the August 8, 2022 statement published on One.Starbucks.com titled "treating One Another with Respect," and any subsequent updates or additions to that statement.

RESPONSE: Defendant objects to this Request because it was served in an improper forum. Plaintiffs' claims in this case are subject to mandatory arbitration pursuant to the arbitration agreement which each Plaintiff entered into with Defendant. Thus, this Request is an attempt to require Defendant to participate in discovery in an improper forum.

Defendant serves this objection solely to preserve its objections pending the Court's consideration of Starbucks' motion to compel arbitration. Defendant does not intend to waive, and is not waiving, its right to arbitrate this dispute by providing this objection and response. By providing these responses, Defendant does not concede or admit that this Court is the proper forum for this dispute. Defendant expressly denies that this Court is the proper forum and further maintains that arbitration is the only proper forum for this dispute.

2. All documents, including written communications, concerning the email that Kevin Kraham sent to Michael Schoenfeld on August 2, 2022, as reference in paragraphs 31 to 33 of Plaintiff's complaint.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

3. All documents, including written communications, concerning the drafting, revision, and publication of any other statements Starbucks made publicly or to third parties about plaintiffs or the events of August 1, 2022, including any oral statement.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

4. All documents, including written communications, relating to the conversation that Melissa Morris had with Nicole Davis on August 1, 2022, including notes take by Davis or other summaries of the conversation.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

5. All other documents, including written communications, concerning the incident that occurred at the Anderson Starbucks on August 1, 2022, as described in paragraphs 20 to 26 of Plaintiffs' Complaint.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

6. All documents, including written communications, concerning the police report that Melissa Morris filed on August 3, 2022.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

7. All documents, including written communications, concerning the police investigation arising from Morris's report.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

8. All documents, including written communications, concerning any request for an arrest warrant arising from Morris's report.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

9. All documents, including written communications, concerning any investigation Starbucks conducted into Plaintiffs as a result of the incident at the Anderson Starbucks on August 1, 2022.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

10. All documents, including written communications, concerning the decision to place Plaintiffs on leave from their job and/or ban them from all Starbucks stores as a result of the incident at the Anderson Starbucks on August 1, 2022

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

11. All documents, including written communications, concerning any video of the August 1, 2022 incident.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

12. Any security footage of the Anderson Starbucks from August 1, 2022.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

13. All emails, text messages, or other electronic communications sent or received by Starbucks employees, from August 1, 2022, to present, that match the following search terms:

- “Skylar,” “Blume,” “Virgil,” “Dowis,” “Rhi,” “Greer,” “Hudons,” “Mann,” “Mya,” “Ourada,” “Braden,” “Terrill,” “Aneil,” “Tripathi,” “Morris,” “South Carolina,” “SC,” “Clemson,” OR “Anderson”

AND

- "police," "sheriff*," "investigate*," "assault," "kidnap*," "lawsuit," "defamation," "libel," "slander," "threat*," "abus*," "belligerent," "ban*," video," "tiktok," "discipline*," "respect," "news," "publish*," "detective," "spoke*," "crisis," "fear," OR "suspense*"

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

14. All documents, including written communications, concerning any journalists' inquiries about the events of August 1, 2022 or Starbucks' response to those events.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

15. All written communications related to this litigation with Melissa Morris.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

16. All policies related to contacting the police about incidents that occur at Starbucks stores.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

17. The personnel file for Melissa Morris including but not limited to all hiring, documents, discipline records, and performance reviews. This request does not seek any medical information or leave information for Melissa Morris.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

18. The personnel file for each of the Plaintiffs in this case including but not limited to all hiring, documents, discipline records, and performance reviews. This request does not seek any medical information or leave information for any individual.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

19. All documents or tangible things you intend to use in your defense or in support of any of your affirmative defenses.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

20. All documents, including written communications, referenced in or relied upon to answer Plaintiffs' First Set of Interrogatories.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

21. All documents, including written communications, relating to any liability insurance coverage that is applicable to the instant litigation.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

22. All witness statements that concern-or relate to the incident on August 1, 2022, at the Anderson Starbucks or actions taken by Starbucks in response to that incident.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

23. All documents subpoenaed or requested from third parties that relate to this lawsuit.

RESPONSE: Defendant fully incorporates its response to Request for Production No.

1 as if set forth herein verbatim.

24. All documents including written communications, that you may use to support any claim or defense in this lawsuit.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

25. Any joint defense or common interest agreement that relates to this lawsuit.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

26. Any agreement between Starbucks and Melissa Morris.

RESPONSE: Defendant fully incorporates its response to Request for Production No. 1 as if set forth herein verbatim.

RESPONSES TO PLAINTIFF'S STANDARD INTERROGATORIES

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

RESPONSE: Defendant objects to this Interrogatory because it was served in an improper forum. Plaintiffs' claims in this case are subject to mandatory arbitration pursuant to the arbitration agreement which each Plaintiff entered into with Defendant. Thus, this Interrogatory is an attempt to require Defendant to participate in discovery in an improper forum.

Defendant serves this response solely to preserve its objections pending the Court's consideration of Starbucks' motion to compel arbitration. Defendant does not intend to waive, and is not waiving, its right to arbitrate this dispute by providing this objection and response. By providing these responses, Defendant does not concede or admit that this Court is the proper forum for this dispute. Defendant expressly denies that this Court is the proper forum and further maintains that arbitration is the only proper forum for this dispute.

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

RESPONSE: Defendant fully incorporates its response to Interrogatory No. 1 as if set forth herein verbatim.

3. Set forth the names and addresses of all insurance companies which have liability insurance

coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

RESPONSE: Defendant fully incorporates its response to Interrogatory No. 1 as if set forth herein verbatim.

4. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

RESPONSE: Defendant fully incorporates its response to Interrogatory No. 1 as if set forth herein verbatim.

5. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses (and not merely topics).

RESPONSE: Defendant fully incorporates its response to Interrogatory No. 1 as if set forth herein verbatim.

RESPONSES TO PLAINTIFF'S ADDITIONAL INTERROGATORIES

6. Identity all individuals involved in the drafting, revision, and decision to publish the August 8, 2022 statement and October 26, 2022 update to the statement titled "Treating One Another with Respect" that appears on One.Starbucks.com.

RESPONSE: Defendant objects to this Interrogatory because it was served in an improper forum. Plaintiffs' claims in this case are subject to mandatory arbitration pursuant to the arbitration agreement which each Plaintiff entered into with Defendant. Thus, this Interrogatory is an attempt to require Defendant to participate in discovery in an improper forum.

Defendant serves this objection solely to preserve its objections pending the Court's consideration of Starbucks' motion to compel arbitration. Defendant does not intend to waive, and is not waiving, its right to arbitrate this dispute by providing this objection and response. By providing these responses, Defendant does not concede or admit that this Court is the proper forum for this dispute. Defendant expressly denies that this Court is the proper forum and further maintains that arbitration is the only proper forum for this dispute.

7. When did Starbucks first become aware of the TikTok video of the August 1, 2022 incident? Describe how the company became aware of it.

RESPONSE: Defendant fully incorporates its response to Interrogatory No. 6 as if set forth herein verbatim.

8. Identify all Starbucks employees who provided information to or communicated with the police in connection with the investigation arising from the incident on August 1, 2022, at the Anderson Starbucks.

RESPONSE: Defendant fully incorporates its response to Interrogatory No. 6 as if set forth herein verbatim.

9. Identify all Starbucks employees who communicated with Melissa Morris regarding the incident on August 1, 2022, at the Anderson Starbucks.

RESPONSE: Defendant fully incorporates its response to Interrogatory No. 6 as if set forth herein verbatim.

10. Describe all electronic systems used by Starbucks employees to communicate regarding work-related matters.

RESPONSE: Defendant fully incorporates its response to Interrogatory No. 6 as if set forth herein verbatim.

11. State the name, address, telephone number, and relationship to you of each person who prepared or assisted in the preparation of or was consulted on the responses to these interrogatories and the Requests for Production.

RESPONSE: Defendant fully incorporates its response to Interrogatory No. 6 as if set forth herein verbatim.

Respectfully submitted,

By: /s/William H. Foster

William H. Foster

SC Bar No. 66221

Email: bfoster@littler.com

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Attorneys for Defendant Starbucks Corporation

Greenville, South Carolina
April 10, 2023

CERTIFICATE OF SERVICE

I do hereby certify, on this 10th day of April, 2023, that a copy of the foregoing ***RESPONSES TO PLAINTIFFS' REQUESTS FOR PRODUCTION OF DOCUMENTS, STANDARD INTERROGATORIES, AND ADDITIONAL INTERROGATORIES*** was served via electronic mail on counsel of record listed below:

Matthew R. Ozment
Matt@go-lawyers.com
100 Williams Street
Greenville, SC 29601

Attorney for Plaintiffs

/s/William H. Foster
William H. Foster
Attorney for Defendant Starbucks Corporation

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ANDERSON	)	
	)	C/A No. 2022-CP-04-02159
Skylar Blume, Virgil Dowis, Rhi Greer,	)	
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, and Aneil Tripathi,	)	
	)	DEFENDANT MELISSA MORRIS'
Plaintiffs,	)	MOTION TO RECONSIDER THE
	)	ORDER DENYING THE MOTION TO
v.	)	DISMISS OR, IN THE ALTERNATIVE,
	)	COMPEL ARBITRATION
Starbucks Corporation and Melissa Morris,	)	
	)	(Hearing and Oral Argument Requested)
Defendants.	)	
	)	

Pursuant to Rule 59 of the South Carolina Rules of Civil Procedure, Defendant Melissa Morris ("Morris" or "Defendant"), by and through her undersigned counsel, timely moves for reconsideration of the Court's Order, dated September 1, 2023, denying Defendant's Motion to Dismiss or, in the Alternative, Compel Arbitration (the "Order").

Ms. Morris bases this Motion on the following grounds:

- Ms. Morris herein adopts, reiterates, and incorporates by reference thereto all of the legal arguments and positions that Defendant Starbucks Corporation set forth in its Motion for Reconsideration of the Court's Order dated September 1, 2023;
- The Arbitration Agreement specifically encompassed Plaintiffs' claims against Morris, as it broadly included all claims between Plaintiffs, Starbucks Corporation, and/or "any current or former employee of Starbucks" (which necessarily includes Ms. Morris who Starbucks formerly employed as Plaintiffs' manager). *See Lampo v. Amedisys Holding, LLC*, 437 S.C. 236, 877 S.E.2d 486, 491 (Ct. App. 2022) ("Lampo agreed to arbitrate her claim against Neasbitt. While the agreement did not name Neasbitt, it did state that, as used in the agreement, the term 'Amedisys' included reference to and was synonymous with its employees and agents. Because Neasbitt is an employee and

agent of Amedisys, the arbitration agreement is directly enforceable by Neasbitt against Lampo.”); and

- Starbucks Corporation and Morris share the same legal defenses on all of the issues that Starbucks raised in its Motion for Reconsideration.

Pursuant to Rule 11(a) of the South Carolina Rules of Civil Procedure, the undersigned had no duty to consult with opposing counsel prior to filing and serving this Motion.

TURNER PADGET GRAHAM & LANEY P.A.

s/RW Belcher

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ATTORNEYS FOR DEFENDANT

MELISSA MORRIS

September 11, 2023

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

Skylar Blume, Virgil Dowis, Rhi Greer,
Jonathan Hudson, Natalie Mann, Mya
Ourada, Braden Terrill, and Aneil Tripathi,

Plaintiff,

vs.

Starbucks Corporation and Melissa
Morris,

Defendants.

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL DISTRICT

Civil Action No. 2022-CP-04-02159

DEFENDANT STARBUCKS
CORPORATION'S MOTION FOR
RECONSIDERATION OF ORDER
DENYING MOTION TO DISMISS OR, IN
THE ALTERNATIVE COMPEL
ARBITRATION

(Hearing and Oral Argument Requested)

Pursuant to Rule 59 of the South Carolina Rules of Civil Procedure, Defendant Starbucks Corporation ("Starbucks" or "Defendant"), by and through its undersigned counsel, hereby submits this Motion for Reconsideration of the Court's September 1, 2023, Order Denying Defendant's Motion to Dismiss or, in the Alternative, Compel Arbitration (the "Order").

Defendant's Motion for Reconsideration is based upon the following grounds:¹

- Respectfully, the Order improperly concludes that this Court has the authority to address any issues concerning interpretation, enforceability or implementation of the Starbucks Mutual Arbitration Agreement ("Arbitration Agreement"). The Arbitration Agreement delegates authority to resolve all issues concerning the agreement's "formation, interpretation, applicability, enforceability, or implementation" of that agreement *solely* to the arbitrator, not this Court, and therefore, this Court must defer to the arbitrator to resolve any such issues, including those raised in Plaintiff's opposition to Starbucks' Motion to Dismiss or, in the Alternative, Compel Arbitration ("Motion").
- Specifically, the issues of whether Starbucks waived the right to compel arbitration, whether Plaintiffs' claims are arbitrable and even the scope of the delegation clause in the

¹ Starbucks reserves the right to file a memorandum in support of this Motion and waives no argument or point by not expressly stating the point herein. Rather, all of Starbucks' prior arguments, points and authorities raised in support of the Motion to Dismiss or Compel Arbitration, Memorandum in Support of the Motion to Dismiss or Compel and its Reply in Further Support of the same are raised herein as if set forth verbatim.

Arbitration Agreement itself are “gateway” issues for the arbitrator, not the Court, to decide.

- Plaintiffs never challenged the validity of the Arbitration Agreement and further failed to specifically contest the validity of the delegation clause in that agreement; thus, there is no basis for the Court to deny Starbucks’ Motion given the plain language in the Arbitration Agreement, namely the delegation clause therein.
- Furthermore, South Carolina law plainly provides that Starbucks did not waive its right to enforce the Arbitration Agreement since Starbucks raised the issue of arbitration from the inception of this case in its Answer, expressly preserved the existence of the Arbitration Agreement as an affirmative defense in its Answer, and moved to enforce that agreement less than six (6) months after Plaintiffs initiated this action.
- Contrary to the Order’s holdings, South Carolina law does not provide that a party waives its right to compel arbitration by filing a motion to dismiss for lack of subject matter jurisdiction.
- The Order also incorrectly concludes that South Carolina law prohibits parties from engaging a court to address administrative or procedural issues prior seeking to compel arbitration and such conduct does not constitute a waiver of a party’s right to compel arbitration as a matter of well-established South Carolina law.
- Moreover, the Order lacks any facts upon which the Court could conclude that Starbucks waived its right to compel arbitration, and further, no such facts exist because Starbucks did not initiate or engage in discovery, waited mere months before seeking to compel arbitration, and raised the issue of arbitration from the inception of this case in its Answer. Indeed, no such facts exist and therefore there is no basis upon which this Court may hold that Starbucks waived its right to compel arbitration.
- The Order incorrectly finds that Plaintiffs’ claims are not arbitrable under the Arbitration Agreement, given that Plaintiffs’ claims clearly fall within the scope of “Covered Claims” pursuant to the Arbitration Agreement. In so ruling, the Court failed to consider established South Carolina precedent holding that courts should look to the “factual allegations underlying [a] claim,” and not the elements of the claims themselves, to determine whether a claim is within the scope of an arbitration agreement. *Zabinski v. Bright Acres Assocs.*, 346 S.C. 580, 597, 553 S.E.2d 110, 118 (2001).
- The Court further failed to adhere to controlling precedent providing that any doubt concerning the scope of the arbitration agreement at issue here “should be resolved in favor of arbitration.” *Zabinski*, 346 S.C. at 589, 553 S.E.2d at 118.
- The Order incorrectly holds that Starbucks waived the right to argue that the Arbitration Agreement’s delegation clause is controlling by allegedly raising that argument for the first time in its Reply brief. In so doing, the Court cites *Bochette v. Bochette*, 300 S.C. 109, 112, 386 S.E. 2d 475, 577 (S.C. Ct. App. 1989), an appellate court opinion addressing the failure

to preserve issues on appeal from a trial court; an opinion without any application in the present context.

As such, the Order contains improper conclusions of law of errors such that reconsideration of the Order is necessary, and Starbucks therefore respectfully requests that this Court vacate the Order denying Starbucks' Motion to Dismiss or, in the Alternative, Compel Arbitration and issue a new order granting Starbucks' Motion.

FACTUAL BACKGROUND

In its Answer to Plaintiffs' Complaint,² Starbucks alleged that this dispute was governed by a binding arbitration agreement between Starbucks and Plaintiffs and that this Court lacked jurisdiction and was the improper venue for this dispute. (Starbucks' Answer at § 75.) Starbucks contends that Plaintiffs' claims are subject to and governed by the Arbitration Agreement. Contemporaneously with the filing of its Answer, Starbucks also filed a motion to dismiss for lack of subject matter jurisdiction on the basis of *Garmon* preemption.³ Starbucks also submitted an administrative request to have this matter assigned to the Business Court Pilot Program under the Program's "catch-all provision" given the complexity of the legal issues involved in this dispute; specifically, the issue of *Garmon* preemption. The Chief Administrative Judge for the Business Court Program declined to assign this matter to the program. Starbucks filed the Motion on April 7, 2023, three (3) weeks before this Court issued the order denying Starbucks' Motion to Dismiss for Lack of Subject Matter Jurisdiction, which was issued on April 27, 2023.

² Plaintiffs filed their Complaint on October 17, 2022. Starbucks timely filed its Answer on December 23, 2022.

³ In so doing, Starbucks argued that pursuant to *San Diego Bldg. Trades Council v. Garmon*, 359 U.S. 236, 245, 79 S.Ct. 773, 780 (1959) and its progeny, the National Labor Relations Board ("NLRB") is the only body with authority to resolve this dispute because Plaintiffs' claims are, in fact, unfair labor practice charges that fall within the exclusive jurisdiction of the NLRB.

In its Motion, Starbucks contends that each Plaintiff entered into a binding, mutual arbitration agreement as a condition of his/her employment with Starbucks, the Arbitration Agreement clearly delegates authority to the arbitrator to address issues concerning “any dispute regarding the formation, interpretation, applicability, enforceability, or implementation” of that agreement, and further that the claims alleged in the Complaint are governed by that agreement. (*See e.g.*, Starbucks’ Memo. in Support; Reply in Further Support.) For their part, Plaintiffs argue that Starbucks waived the right to arbitrate Plaintiffs’ claims and that their claims do not fall within the scope of the Arbitration Agreement but do not dispute that they entered into a valid agreement to arbitrate with Starbucks, nor do they contest any of the terms in the Arbitration Agreement itself. (Pl.’s Memo. in Opp.)

STANDARD OF REVIEW

A motion for reconsideration pursuant to Rule 59(e), SCRCP, is appropriate to “correct a clear error of law or prevent manifest injustice.” *Collison v. International Chem. Workers Union*, 34 F.3d 233, 236 (4th Cir. 1994) (applying Fed. R. Civ. P. 59(e), upon which the SC Rule 59(e) is modeled). Motions for reconsideration are completely within the Court’s discretion. *Sullivan v. Hawker Beechcraft Corp.*, 397 S.C. 143, 153, 723 S.E.2d 835, 841 (Ct. App. 2012)

Pursuant to Rule 59(e), SCRCP, a party may move for reconsideration of a ruling when it believes the court has “misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it.” *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 722, 780 (2004). Further, “it is proper to view a Rule 59(e) motion not only as a vehicle to request the trial court to ‘alter or amend the judgment,’ but also as a vehicle to seek ‘reconsideration’ of issues and arguments.” *Id.* at 21, 602 S.E.2d at 779. Moreover, “[t]here is nothing inherently unfair in allowing a party one final chance not only to call

the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument." *Id.* at 22, 602 S.E.2d at 779.

ARGUMENT

A. The Delegation Clause in the Arbitration Agreement Requires That This Court Refer This Dispute to the Arbitrator.

With all due respect, the Order incorrectly resolves "gateway issues" which were clearly delegated to the arbitrator, not this Court, and it was improper for this Court to reach such conclusions. The appropriate remedy, given the language in the Arbitration Agreement and issues before the Court, was to compel this dispute to arbitration and defer the resolution of any and all such issues to the arbitrator.

"[A] court may not override the contract" to arbitrate and decide issues when "the parties' [arbitration] agreement delegate[]" authority to the arbitrator to resolve such issues. *Palmetto Wildlife Extractors, LLC v. Ludy*, 435 S.C. 690, 700, 869 S.E.2d 859, 864 (Ct. App. 2022) (holding a delegation clause was valid and enforceable and required the court to abstain from ruling on issues concerning the scope, enforceability, and potential exceptions to enforcement of the agreement). South Carolina courts recognize that the parties to an arbitration agreement may delegate authority to an arbitrator to resolve "gateway issues" concerning the enforceability, scope and interpretation of the agreement. *Id.*; *see also DOE v. TSCS, LLC*, 430 S.C. 602, 608, 846 S.E.2d 874, 877 (Ct. App. 2020) (same) (citing *First Options of Chicago, Inc. v. Kaplan*, 514 U.S. 938, 944-45, 115 S.Ct. 1920 (1995)). Importantly, a court may only pass judgment on gateway issues if the "party resisting arbitration has made a direct and discrete challenge to the validity and enforceability of the delegation clause *specifically*." *TSCS*, 430 S.C. at 608, 846 S.E.2d at 877 (citing *Rent-A-Ctr., W., Inc. v. Jackson*, 561 U.S. 63, 68 130 S.Ct. 2772 (2010)) (emphasis added).

Critically, Plaintiffs offered no challenge to the delegation clause or to the validity of the Arbitration Agreement. In fact, Plaintiffs effectively concede that the Arbitration Agreement is valid and enforceable, including the delegation clause, and that they are bound by that agreement. By failing to challenge the delegation clause (or the Arbitration Agreement), Plaintiffs cannot argue that the delegation clause does not apply. Plaintiffs' failure to do so effectively ties this Court's hands such that it must enforce the Arbitration Agreement as written. Given Plaintiffs' failure to make such a challenge, this Court is not authorized to pass judgment on any "gateway issues" pertaining to the Arbitration Agreement. *See TSCS*, 430 S.C. at 608, 846 S.E.2d at 877. Rather, the Court must simply enforce the Arbitration Agreement and is bound by the delegation clause because Plaintiffs failed to challenge (whether discretely or directly) to the validity and enforceability of the delegation clause.

As a result, the Order improperly addresses issues concerning the enforceability (*i.e.*, waiver) and scope of the Arbitration Agreement (*i.e.*, whether Plaintiffs' claims are subject to the Arbitration Agreement). (Order at 1-3.) Critically, each of those issues must be resolved by the arbitrator, not this Court.

The Arbitration Agreement provides that:

Except as provided below, Starbucks and I agree that the Arbitrator - and not a court or agency - shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

(Def.'s Memo. in Support at Exhibit A "Ex. A".)

In light of the plain language of the Arbitration Agreement, the issues resolved in the Order concern issues "regarding the formation, interpretation, applicability, enforceability, or implementation" of the Arbitration Agreement. The parties clearly agreed to delegate those issues

to the arbitrator. Thus, it was improper for this Court to consider and rule upon those issues as the parties clearly and unmistakably delegated the authority to do so to the arbitrator. *See Ludy*, 435 S.C. at 700, 869 S.E.2d at 864. Instead, those issues must be resolved by the arbitrator, not this Court.

B. The Order Contains Errors of Law Regarding the Timing and Adequacy of Starbucks' Arguments on the Delegation Clause.

Equally incorrect are the Order's conclusions concerning the timing of Starbucks' arguments concerning the delegation clause. The authority which the Order relies upon to support its finding that Starbucks "[b]y raising this argument for the first time on reply, Starbucks waived this argument" *only applies* in the context of appeals. (Order at 2, citing *Bochette v. Bochette*, 300 S.C. 109, 112, 386 S.E. 2d 475, 577 (Ct. App. 1989). As noted above, *Bouchette* plainly has no application in the context of the instant case. In *Bouchette*, the South Carolina Court of Appeals held that "[a]n *appellant* may not use either oral argument or the reply brief as a vehicle to argue issues not argued in the appellant's brief." *Id.* This authority is clearly inapplicable here and does not stand for the conclusion for which the Order utilizes it. Thus, the Order's reliance on *Bouchette* to effectively bar Starbucks from arguing an issue clearly raised in its Motion and/or supporting briefs timely submitted before oral argument to the trial court is incorrect and improper.

Similarly, the Court's Order also incorrectly finds that that the Arbitration Agreement does not "clear[ly] and unmistakabl[y]" delegate questions of arbitrability" to the arbitrator because it "excludes '(c) actions to enforce this Agreement, compel arbitration, [or] compel arbitration.'" (Order at 3.)⁴ Contrary to the Court's conclusions, however, this "action" was initiated by Plaintiffs, and is not one to enforce the Agreement. Instead, Plaintiffs' action seeks civil relief

⁴ As explained herein, even Plaintiffs' challenge to the scope of the delegation clause itself is a "gateway" issue for the arbitrator, and not this Court, to resolve.

from events which took place as part of Plaintiffs' employment with Starbucks and Plaintiffs' efforts to alter (and negotiate changes to) the terms and conditions of their employment with Starbucks.⁵ (*See e.g.*, Compl.) Thus, it was improper for the Court to conclude that the exception in the Arbitration Agreement – which literally applies to separate actions *solely* seeking to enforce that agreement or to compel arbitration – is applicable here.

Notwithstanding these incorrect conclusions, Starbucks undoubtedly raised the issue of the delegation clause in its initial brief, as it expressly cited to that clause, and further addressed in its reply brief timely filed in advance of oral argument, and at oral argument. (*See* Starbucks Memo in Support; Reply in Further Support). Thus, the record is clear that the delegation clause in the Arbitration Agreement bars this Court from addressing the issue of waiver (or other “gateway issues”) as those were delegated to the arbitrator.

Moreover, the delegation clause clearly governs issues “formation, interpretation, applicability, enforceability, or implementation” of the Arbitration Agreement, and therefore, the arbitrator, not this Court, is the only party with the authority to address any “gateway issues,” including challenges to the scope of the agreement and/or claims of wavier.

C. Starbucks Did Not Waive Its Right To Compel Arbitration

Respectfully, the Order's conclusions concerning waiver and its application to the facts of this case directly contradict black letter South Carolina law. While the Court had no authority to address the issue of waiver in the first instance, no basis exists for the Court to find that Starbucks waived its right to compel arbitration. Thus, the Order incorrectly applies waiver here.

⁵ Such an action would only take the form of a declaratory judgment action seeking to declare the Arbitration Agreement valid and enforceable which this action is simply not.

In South Carolina “a party *may* waive its right to compel arbitration if a substantial length of time transpires between the commencement of the action and the commencement of the motion to compel arbitration.” *Rhodes v. Benson Chrysler-Plymouth, Inc.*, 374 S.C. 122, 126, 647 S.E.2d 249, 251 (Ct. App. 2007) (emphasis added). Beside the passage of time, another key factor in this analysis is whether the party seeking to compel arbitration initiated discovery and the extent of the discovery exchanged between the parties prior to moving party’s request to compel arbitration, namely whether the parties engaged in “extensive discovery.” *Id.*; see also *Evans v. Accent Manufactured Homes, Inc.*, 352 S.C. 544, 548, 575 S.E.2d 74, 75–76 (Ct. App. 2003) (finding party had waived right to compel arbitration by engaging in substantial written discovery and conducting multiple depositions); *Samuel v. Schumacher Homes of S.C.*, No. 2019-001972, 2022 WL 854380, at *1 (S.C. Ct. App. Mar. 23, 2022) (holding party waived right to compel arbitration where the (1) case was pending for two years prior to motion to compel arbitration, (2) parties engaged in discovery in preparation for trial, including several depositions, and (3) parties mediated the case prior to the filing of a motion to compel arbitration).

The passage of mere months is insufficient as a matter of law to constitute waiver of a right to compel arbitration. *Rhodes*, 374 S.C. at 128, 647 S.E.2d at 252; *Toler’s Cove Homeowners Ass’n, Inc. v. Trident Constr. Co.*, 355 S.C. 605, 612, 586 S.E.2d 581, 585 (2003) (a fifteenth (15) month delay in seeking to compel arbitration was insufficient to constitute waiver); *Rich v. Walsh*, 357 S.C. 64, 67, 590 S.E.2d 506, 507 (Ct. App. 2003) (thirteen (13) month delay where “limited discovery was conducted,” including a single deposition, was insufficient to constitute waiver of a right to compel arbitration); *Gen. Equip. & Supply Co. v. Keller Rigging & Constr., Inc.*, 344 S.C. 553, 556, 544 S.E.2d 643, 645 (Ct. App. 2001) (less than eight (8) month delay was insufficient to constitute waiver). Rather, for a period of time to constitute a “substantial length

of time” it must constitute multiple years of delay in seeking to compel arbitration. *Deloitte & Touche, LLP v. Unisys Corp.*, 358 S.C. 179, 184, 594 S.E.2d 523, 526 (Ct. App. 2004) (more than five-year delay in seeking to compel arbitration was sufficient to constitute waiver of right to compel arbitration); *Liberty Builders, Inc. v. Horton*, 336 S.C. 658, 666, 521 S.E.2d 749, 753-54 (Ct. App. 1999) (more than two-year delay in seeking to compel arbitration was enough to constitute a waiver of the right to do so).

Under South Carolina law, the Order’s rationale for finding waiver is incorrect. The Order provides that “Defendants have waived the right to compel arbitration. Defendants waited several months to seek to arbitrate Plaintiffs’ claims.” (Order at 3.) However, pursuant to black letter South Carolina law, the passage of mere months is insufficient to constitute a “substantial length of time” to establish the defense of waiver. *See Gen. Equip.*, 344 S.C. at 556, 544 S.E.2d at 645; *Toler’s Cove*, 355 S.C. at 612, 586 S.E.2d at 585; *Rich*, 357 S.C. at 67, 590 S.E.2d at 507. This is certainly true here as less than six (6) months have passed between when Plaintiff initiated this action and when Starbucks filed this Motion. Plaintiffs commenced this action in October 2022. Starbucks filed its Motion to Dismiss or, in the alternative, Stay Proceedings and Compel Arbitration on April 7, 2023.

Critically, in its Answer timely filed in December 2022, only two (2) months after Plaintiff initiated this action, Starbucks raised the issue of arbitration and argued “Plaintiffs’ claims ***should be dismissed because those claims are subject to and governed by a binding agreement to arbitrate*** and, as such, this Court lacks jurisdiction over this dispute and/or is the improper venue for this action.” (Starbucks Answer at ¶ 75) (emphasis added). Thus, contrary to the Order’s conclusions, Plaintiffs were on notice from the outset of Starbucks’ appearance in this case that arbitration, not this Court, was the only proper forum for this dispute. Based upon precedent from

courts in South Carolina, Starbucks undeniably did not waive its right to compel arbitration. Accordingly, the Order incorrectly concludes that the passage of time between Plaintiffs' filing of the Complaint and Starbucks' filing of its Motion is sufficient to find waiver here.

Further, there is no evidence that Starbucks engaged in any conduct that would otherwise allow waiver to be applied here. Starbucks did not initiate discovery and has not participated in substantive discovery.⁶ No depositions have been conducted in this case. Neither Defendant has served any discovery on Plaintiff. According to South Carolina law, no waiver occurs where the parties have not engaged in substantive discovery. *See Rhodes*, 374 S.C. at 126, 647 S.E.2d at 251; *Evans*, 352 S.C. at 548, 575 S.E.2d at 75–76. This is certainly true where the party seeking to compel arbitration did not initiate or serve any discovery.

The Order also incorrectly concludes that Starbucks' filing of a procedural motion⁷ and administrative request, given the passage of time and lack of discovery conducted, is sufficient to constitute waiver. (Order at 3.) Under South Carolina law, it is well established engaging a court for procedural matters, jurisdictional motions, or administrative requests does not waive a party's right to compel arbitration. *See Gen. Equip*, 344 S.C. at 557, 544 S.E.2d at 645 (engaging in administrative matters are insufficient to establish waiver even after an eight-month delay before

⁶ Plaintiffs, not Starbucks or Defendant Morris, initiated discovery in this case by serving discovery requests on Starbucks. In accordance with its position that arbitration is the only proper forum for this dispute, Starbucks responded to those requests by objecting that they had been served in the improper forum because Plaintiff's claims were subject to mandatory arbitration and expressly denied that this Court was the proper forum for this dispute.

⁷ As previously explained, Starbucks' motion to dismiss was based on *Garmon* preemption based on Defendant's contention that Plaintiffs' claims were preempted by the NLRA and subject to the exclusive jurisdiction of the NLRB. In other words, neither this Court nor an arbitrator has jurisdiction over claims subject to the NLRA. Indeed, the potential application of *Garmon* preemption – a complex legal issue – was the sole reason Starbucks made the administrative request for assignment of this matter to the Business Court program (a matter of assignment within the same Court system, and not “forum shopping” as suggested by Plaintiffs).

seeking to compel arbitration); *Toler's Cove*, 355 S.C. at 612, 586 S.E.2d at 585 (filing motions concerning procedural/jurisdictional issues and third-party practice did not constitute waiver of right to compel arbitration). Thus, the Order contains an error of law in its conclusion that Starbucks' motion to dismiss for lack of subject matter jurisdiction and request to transfer this case to the Business Court Pilot Program are sufficient to constitute a waiver of Starbucks' right to compel arbitration.

As outlined in Section A, *supra*, this Court must not address "gateway issues" as those were delegated solely to the arbitrator. However, even if this Court were authorized to do so, the facts of this case do not support the conclusion that Starbucks waived its right to compel arbitration. Rather, South Carolina law clearly provides that Starbucks *did not* waive its right to compel arbitration.⁸

D. Plaintiffs' Claims Are Within the Scope of the Arbitration Agreement

⁸ The Order's conclusion in reliance upon the Court's holding in *Morgan v. Sundance*, 142 S.Ct. 1708 (2022) is also incorrect. In *Morgan*, the United States Supreme Court merely held that the "usual **federal** rule of waiver does not include a prejudice requirement," while not precluding state courts from continuing to include prejudice as a factor when analyzing waiver of arbitration under state law as some state courts continue to do post-*Morgan*. (emphasis added). See *Alarcon Constr. Group v. Santoyo*, No. 05-21-00885-CV, 2022 WL 4923461, *5, fn. 3 (Tex. Ct. App., Oct. 4, 2022) (citing *Morgan* while continuing to apply prejudice as a factor in analyzing waiver of arbitration under Texas state law).

The South Carolina Court of Appeals has noted that the Court's holding from *Morgan* simply requires that "a court must hold a party to its arbitration contract just as the Court would to any other kind." *Lampo v. Amedisys Holding, LLC*, 437 S.C. 236, 242, 877 S.E.2d 489 (Ct. App. 2022) (quoting *Morgan*, 142 S.Ct. at 1713).) However, the *Morgan* opinion does not provide – as this Court's Order suggests – that "courts must apply to arbitration agreements the same test that applies to waiver of other contractual rights or defenses," and reaching this conclusion is inconsistent with the Supreme Court's holding in *Morgan* and controlling South Carolina precedent.

While the arbitrator, not this Court, is the proper party to address issues concerning the scope of the Arbitration Agreement, Plaintiffs' claims clearly fall within the scope of the Arbitration Agreement. Thus, the Order incorrectly concludes that Plaintiffs' claims are not within the scope of the Agreement.⁹

South Carolina courts look to the “*factual allegations underlying [a] claim*,” and not the elements of the claims themselves, to determine whether a claim is within the scope of an arbitration agreement. *Zabinski*, 346 S.C. at 597, 553 S.E.2d at 118 (emphasis added). South Carolina courts have routinely held that tort claims brought by employees against their employer fall within (and are subject to) arbitration agreements even though the claims are not “traditional employment-law claims.” See *Landers v. Fed. Deposit Ins. Corp.*, 402 S.C. 100, 110, 739 S.E.2d 209, 214 (2013) (claims for defamation and intentional infliction of emotional distress were subject to the arbitration agreement between an employer and its employee); *Towles v. United HealthCare Corp.*, 338 S.C. 29, 41-42, 524 S.E.2d 839, 846-847 (Ct. App. 1999) (employee's tort claims, including, defamation, conspiracy, negligent supervision, and reckless or intentional infliction of emotional distress were subject to the arbitration agreement between employee and employer where the arbitration agreement included “all other tort or contract theories” in addition to typical employment law claims); *Lampo*, 437 S.C. at 244-45, 877 S.E.2d at 491 (arbitration agreement between employer and employee applied to employee's tort claims for defamation and interference with prospective contractual relations).

⁹ As set forth above in Section A, *supra*, the issue of the scope of the Arbitration Agreement is one left for the arbitrator, not this Court. Starbucks does not waive its right to address the scope of the Arbitration Agreement by responding to the Order's incorrect conclusions concerning the same to the arbitrator.

As an initial matter, the Order incorrect concludes that Plaintiffs' defamation claim is outside the scope of the Arbitration Agreement. (Order at 3.) As outlined above, South Carolina law clearly provides that an employee's defamation claim against its employer is one which routinely falls within the scope of arbitration agreements between those parties. *See Landers*, 402 S.C. at 110, 739 S.E.2d at 214; *Lampo*, 437 S.C. at 244-45, 877 S.E.2d at 491; *Towles*, 338 S.C. at 41-42, 524 S.E.2d at 846-847. Thus, the Order's conclusion concerning Plaintiffs' defamation claim is clearly opposed to black-letter South Carolina law and therefore is incorrect.

Moreover, Plaintiff's common law claims inextricably relate to their employment with Starbucks. Indeed, Plaintiffs' Complaint makes it crystal clear that the alleged facts which support Plaintiffs claims are inseparably tethered to Plaintiffs' employment with Starbucks and are indeed premised upon Defendants' response to an incident that occurred in the workplace. Here, the Agreement applies to "Covered Claims," which are defined broadly as follows:

'Covered Claims' are those brought under any statute, local ordinance, ***or common law*** relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

(Ex. A) (emphasis added.)

Thus, the Arbitration Agreement applies to any common law claim which, as Plaintiffs' claims plainly do, relate to Plaintiffs' employment with Starbucks.¹⁰ For example, Plaintiffs' abuse of process claim is centered upon Plaintiffs' claim that Defendants engaged in acts which

¹⁰ The United States District Court for the District of California reached a similar conclusion in *Sabouhi v. Starbucks Corp.*, Case No. 2:21-04446, 2022 WL 2101727, at *2 (C.D. Cal. Mar. 14, 2022) (district court granting motion to compel arbitration where the claims at issue included a common law defamation claim).

were “for the illegitimate collateral purpose of prevent Plaintiffs from publicly protesting Starbucks.” (Compl. ¶ 62.) In their own words, Plaintiffs allege that they engaged in this conduct (i.e., protesting Starbucks) to address their “requests relating to their terms and conditions of employment.” (*Id.* ¶ 20.) Thus, Plaintiffs themselves link their abuse of process claim, as well as their defamation claim, to their employment and have alleged those claims to describe activity which is only legally protected **because** Plaintiffs were/are Starbucks employees. In other words, Plaintiffs’ claims do not exist except for their employment with Starbucks. Accordingly, the Order incorrectly concludes that Plaintiffs’ claims do not fall within the scope of the Arbitration Agreement as their claims undoubtedly are within the scope of the parties’ agreement.

Also incorrect is the Order’s reliance upon *Aiken v. World Finance Corp. of SC*, 373 S.C. 144, 151, 644 S.E.2d 705, 709 (2007). The *Aiken* decision simply has no bearing here. In *Aiken*, the Court never considered the employee’s claims in *Aiken* under the terms of an arbitration agreement. *Id.* at 149, 644 S.E.2d at 708. Further, unlike the former employee in *Aiken*, Plaintiffs themselves have inextricably bound their claims to the employment context by claiming Defendants’ actions spawned from an incident in the workplace where Plaintiffs were protesting the terms and conditions of their employment, and that Defendants’ actions were motivated by a desire to prevent Plaintiffs from engaging in such activities in the workplace.¹¹ (Compl. ¶¶ 20, 62.)

¹¹ South Carolina courts have consistently held that such tort claims, including defamation, fall within the scope of a broad arbitration clause between employer and employee. *See Landers*, 402 S.C. at 109, 739 S.E.2d at 213 (2013) (finding Landers’ defamation claim arbitrable because the alleged defamatory statements “directly related to Landers’ ability to perform his duties with Bank”); *Pearson v. Hilton Head Hosp.*, 400 S.C. 281, 297, 733 S.E.2d 597, 605 (Ct. App. 2012) (finding Pearson’s tort claims, including defamation, arbitrable because the arbitration clause was broad and Pearson’s tort claims resulted from his employment); *Towles*, 338 S.C. at 42, 524 S.E.2d at 846 (finding Towles’ defamation claim arbitrable because the agreement’s plain language covered all tort and contract theories).

Thus, this case is decidedly different from *Aiken* and that opinion (and its rationale) is inapplicable here.

CONCLUSION

Accordingly, the Order contains errors of law in that it rules upon any of the merits of Plaintiffs' arguments in opposition to Starbucks' Motion and fails to refer this dispute to arbitration in accordance with the plain language of the Arbitration Agreement. As such, Starbucks respectfully requests that the Court reconsider its Order, vacate that Order, and issue a new Order granting the Motion to Dismiss or, alternatively, Granting Starbucks' Request to compel arbitration.

Respectfully submitted,

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Greenville, South Carolina
September 8, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	FOR THE TENTH JUDICIAL CIRCUIT
Skylar Blume, Virgil Dowis, Rhi Greer,	)	Civil Action No. 2022-CP-04-02159
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, and Aneil Tripathi,	)	
	)	
Plaintiffs,	)	DEFENDANT STARBUCKS
	)	CORPORATION'S REPLY
vs.	)	IN FURTHER SUPPORT OF ITS
	)	MOTION TO DISMISS AND
Starbucks Corporation and Melissa Morris,	)	COMPEL ARBITRATION
	)	
Defendants.	)	

Defendant Starbucks Corporation ("Starbucks") hereby submits this Reply in further support of its Motion to Dismiss or, in the alternative, Stay Proceedings and Compel Arbitration pursuant to the Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 3–4.

For the reasons set forth herein and as further set forth in Starbucks' Memorandum in Support of its Motion, Starbucks respectfully requests that this Court grant Starbucks' Motion.

I. SUMMARY OF ARGUMENT

In opposing Starbucks' Motion, Plaintiffs – all current/former Starbucks employees – do not contest the validity of the Starbucks Mutual Arbitration Agreement (the "Agreement"), and they likewise admit that they are each bound by the Agreement. Instead, Plaintiffs contend that Starbucks waived its right to compel arbitration by first moving this Court to dismiss pursuant to the *Garmon* doctrine, and they further argue that their common law claims fall outside the scope of the Agreement and are thus not subject to arbitration. (See Plaintiffs' Memorandum in Opposition ("Pls.' Memo."), pp. 1-2, 6-12.)

Unfortunately for Plaintiffs, however, their admissions regarding the validity of the Agreement end the Court's analysis and mandate dismissal of this action in favor of arbitration, as the Agreement expressly provides that the arbitrator, not a court, possesses the sole authority to

address issues concerning the enforceability, interpretation, or applicability of the Agreement.¹ Thus, the discrete issues raised in Plaintiffs' Opposition are matters the parties specifically delegated to the respective arbitrator, and this Court cannot address the same.

Even if this Court is inclined to address the arguments raised in Plaintiffs' Opposition, those arguments fail. As a matter of established South Carolina law, Plaintiffs cannot demonstrate that Starbucks waived its right to enforce the Arbitration Agreement. Starbucks first raised the issue of arbitration in its Answer, the first responsive pleading filed by Starbucks in this case. Moreover, Starbucks' Motion to Dismiss based on *Garmon* preemption was premised upon the doctrine that the *only* appropriate venue for an unfair labor practice claim is the NLRB; *i.e.*, neither this Court nor an arbitrator would have subject matter jurisdiction over such claims. Once the Court ruled that *Garmon* preemption did not apply in the present context, Starbucks timely and appropriately filed the instant Motion.

Further, Plaintiffs' common law claims in the Complaint unequivocally center upon an incident that occurred within the workplace, and is inextricably tied to Plaintiffs' employment with Starbucks. Pursuant to the plain language of the Agreement, those claims are "Covered Claims" and must be resolved through arbitration. Accordingly, this Court should grant Starbucks' Motion and compel this dispute to arbitration.

¹ A copy of the Agreement is attached as **Exhibit C** to Starbucks' Memorandum in Support of its Motion and is attached hereto as **Exhibit A** for ease of reference.

II. ARGUMENT

A. **The Parties Delegated All Issues Concerning the Agreement to the Arbitrator and this Court Lacks Authority to Address Those Issues.**

On the face of the operative Agreement, the parties expressly agreed to delegate certain issues to the requisite arbitrator. (See Ex. A at 1.) As such, any challenge to the Agreement – and specifically the challenges Plaintiffs have now raised – must be addressed by the arbitrator, not this Court.

South Carolina courts recognize that the parties to an arbitration agreement may delegate authority to an arbitrator to resolve “gateway issues” concerning the enforceability, scope and interpretation of the agreement. *DOE v. TSCS, LLC*, 430 S.C. 602, 608, 846 S.E.2d 874, 877 (Ct. App. 2020) (citing *First Options of Chicago, Inc. v. Kaplan*, 514 U.S. 938, 944-45, 115 S.Ct. 1920 (1995)); see also *Palmetto Wildlife Extractors, LLC v. Ludy*, 435 S.C. 690, 699, 869 S.E.2d 859, 864 (Ct. App. 2022) (holding a delegation clause was valid and enforceable and required the court to abstain from ruling on issues concerning the scope, enforceability, and potential exceptions to enforcement of the agreement).

In so holding, South Carolina courts are in lockstep with the United States Supreme Court, which has likewise held that “parties may agree to have an arbitrator decide not only the merits of a particular dispute but also ‘gateway’ questions of ‘arbitrability,’ such as whether the parties have agreed to arbitrate or whether their agreement covers a particular controversy.” *Henry Schein, Inc. v. Archer & White Sales, Inc.*, 139 S. Ct. 524, 529 (2019) (quoting *Rent-A-Ctr., W., Inc. v. Jackson*, 561 U.S. 63, 68-69 (2010)). “This line of cases merely reflects the principle that arbitration is a matter of contract.” *Rent-A-Ctr., W., Inc.*, 561 U.S. at 69. As long as the parties’ agreement delegates the arbitrability question to an arbitrator “by ‘clear and unmistakable’ evidence,” a court may not override the contract and decide the arbitrability question. *Henry Schein, Inc.*, 139 S. Ct.

at 529-30 (quoting *First Options of Chicago, Inc. v. Kaplan*, 514 U.S. 938, 944, 115 S.Ct. 1920, (1995)).

In the instant case, the parties' Agreement provides as follows:

Except as provided below, Starbucks and I agree that the Arbitrator - and not a court or agency - shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

(Ex. A.) Thus, the plain language of the Agreement provides that the parties clearly and unmistakably delegated authority to the requisite arbitrator to address issues concerning the interpretation (i.e., scope), applicability, enforceability, and/or implementation of the Agreement. (*Id.*)

In their opposition, Plaintiffs challenge the scope of the Agreement and further claim that Starbucks waived the right to enforce the Agreement. Each of the issues raised by Plaintiffs concern the "interpretation, applicability, enforceability, or implementation of [the] Agreement" and are issues **exclusively** delegated to the arbitrator. As a result, the challenges raised by Plaintiffs in opposition to Starbucks' Motion are only proper before the respective arbitrator and may not be addressed by this Court pursuant to the parties' Agreement and black letter South Carolina law.²

Importantly, courts may only pass judgment on gateway issues where the "party resisting arbitration has made a direct and discrete challenge to the validity and enforceability of the delegation clause **specifically**." *TSCS, LLC*, 430 S.C. at 608, 846 S.E.2d at 877 (citing *Rent-A-Ctr., W., Inc.*, 561 U.S. at 68 (2010)) (emphasis added). Plaintiffs made no such challenge here and

² Deferring these issues to the arbitrator is consistent with this South Carolina Courts' policy that "arbitration is a matter of contract, and courts must enforce contracts according to their terms." *Palmetto Wildlife Extractors, LLC v. Ludy*, 435 S.C. 690, 699, 869 S.E.2d 859, 864 (Ct. App. 2022).

effectively concede that (1) the Agreement is valid and enforceable and (2) they are bound by the Agreement. Thus, to the extent that Plaintiffs attempt to retroactively contest the delegation clause, doing so is improper as they must have done so via a direct, specific challenge to that clause. See *Rent-A-Center W., Inc.*, 561 U.S. at 68.

In summary, this Court cannot address the issues raised in Plaintiffs' Opposition to Starbucks' Motion because the parties plainly delegated the authority to address those issues to the arbitrator, and Plaintiffs further failed to contest the validity of the delegation clause in the Agreement. Therefore, this Court must grant Starbucks' Motion and compel arbitration.

B. Starbucks Did Not Waive its Right to Compel Arbitration.

If the Court is inclined to consider Plaintiffs' waiver claim, which it should not do as that issue is solely one for the arbitrator, Starbucks' Motion should still be granted as it clearly has not waived its right to compel arbitration as a matter of law.

When considering the issue of waiver with respect to a right to compel arbitration, courts in South Carolina consider (1) whether a substantial length of time passed between the commencement of the underlying action and the filing of the motion to compel arbitration, (2) whether the party seeking to compel arbitration engaged in extensive discovery before moving to compel arbitration, and (3) whether the non-moving party was prejudiced by the delay in seeking to compel arbitration. *Rhodes v. Benson Chrysler-Plymouth, Inc.*, 374 S.C. 122, 126, 647 S.E.2d 249, 251 (Ct. App. 2007).³

³ In a recent (2022) opinion, the United States Supreme Court held that courts may not create "custom-made rules, to tilt the playing field in favor of (**or against**) arbitration." *Morgan v. Sundance, Inc.*, 142 S.Ct. 1708, 1712 (2022). In so doing, the Court resolved a split among federal circuits over the adoption of a procedural rule requiring a showing of prejudice to establish waiver in the context of arbitration. The *Morgan* opinion does not alter this Court's analysis of the present Motion, as the test applicable in South Carolina does not require that Plaintiffs demonstrate

Generally, waiver of a right to compel arbitration occurs where a dispute is several years old before a party seeks to compel arbitration. *Deloitte & Touche, LLP v. Unisys Corp.*, 358 S.C. 179, 184, 594 S.E.2d 523, 526 (Ct. App. 2004) (more than five-year delay in seeking to compel arbitration was sufficient to constitute waiver of right to compel arbitration); *Liberty Builders, Inc. v. Horton*, 336 S.C. 658, 666, 521 S.E.2d 749, 753-54 (Ct. App. 1999) (more than two year delay in seeking to compel arbitration was enough to constitute a waiver of the right to do so). Similarly, the moving party must engage in substantial discovery (and other tasks) which sufficiently evidences an intent not to pursue arbitration but to litigate in the court where the dispute is filed. *See id.* (finding waiver where the parties “conducted a significant amount of discovery” including “the production of thousands of documents”); *see also Evans v. Accent Manufactured Homes, Inc.*, 352 S.C. 544, 548, 575 S.E.2d 74, 75–76 (Ct. App. 2003) (finding party had waived right to compel arbitration by engaging in written discovery and conducting multiple depositions); *Samuel v. Schumacher Homes of S.C.*, No. 2019-001972, 2022 WL 854380, at *1 (S.C. Ct. App. Mar. 23, 2022) (holding party waived right to compel arbitration where (1) case was pending for two years prior to motion to compel arbitration, (2) parties engaged in discovery in preparation for trial, including several depositions, and (3) the parties mediated the case prior to the filing of a motion to compel arbitration).⁴

Courts have routinely held that the passage of mere months is insufficient to constitute a “substantial length of time.” *Rhodes*, 374 S.C. at 128, 647 S.E.2d at 252; *see also Toler’s Cove*

prejudice in the first instance, and each of the applicable factors this Court must consider regarding the issue of waiver weigh heavily in Starbucks’ favor.

⁴ Notably, Plaintiffs cite to several of the cases cited herein and do so to support their claim that something other than the factors from *Rhodes* are used to determine whether a party has waived a right to compel arbitration. This proposition is incorrect as each of these cases rely upon the same three factors used by the Court in *Rhodes*.

Homeowners Ass’n, Inc. v. Trident Constr. Co., 355 S.C. 605, 612, 586 S.E.2d 581, 585 (2003) (a thirteen (13) month delay in seeking to compel arbitration was insufficient to constitute waiver); *Rich v. Walsh*, 357 S.C. 64, 67, 590 S.E.2d 506, 507 (Ct. App. 2003) (same); *Gen. Equip. & Supply Co. v. Keller Rigging & Constr., Inc.*, 344 S.C. 553, 556, 544 S.E.2d 643, 645 (Ct. App. 2001) (less than eight (8) month delay was insufficient to constitute waiver). In fact, Plaintiffs present no authority from South Carolina which supports their claim that the passage of time in this case, *i.e.*, mere months, is a “substantial length” of time such that the moving party waived its right to compel arbitration. (*See generally* Pls.’ Memo.)

Plaintiffs commenced this action in October 2022. Starbucks, in its first responsive pleading filed in this case, raised the issue of arbitration and argued “Plaintiffs’ claims ***should be dismissed because those claims are subject to and governed by a binding agreement to arbitrate*** and, as such, this Court lacks jurisdiction over this dispute and/or is the improper venue for this action.” (Def.’s Answer at ¶ 75) (emphasis added). Contrary to Plaintiffs’ arguments, the issue of arbitration was first raised in December 2022, two (2) months after Plaintiffs initiated this action.

Starbucks filed its Motion to Dismiss or, in the alternative, Stay Proceedings and Compel Arbitration on April 7, 2023. The Court did not hear argument on Starbucks’ initial Motion to Dismiss based on the *Garmon* doctrine until February 9, 2023, and the final order from that hearing was not issued until April 27, 2023, almost three (3) weeks *after* Starbucks filed the instant Motion.

Even so, only six (6) months passed between the date that Plaintiffs filed the Complaint and the filing of the present Motion. Pursuant to black letter South Carolina law, six (6) months is insufficient to constitute a “substantial length of time” to establish the defense of waiver. *See Gen. Equip.*, 344 S.C. at 556, 544 S.E.2d at 645; *Toler’s Cove*, 355 S.C. at 612, 586 S.E.2d at 585; *Rich*, 357 S.C. at 67, 590 S.E.2d at 507.

Another factor South Carolina courts consider in determining if waiver has occurred is whether the moving party engaged in discovery before seeking to compel arbitration. *Rhodes*, 374 S.C. at 126, 647 S.E.2d at 251. Courts interpreting this factor have held that waiver occurs only where a party conducts “a significant amount of discovery.” *Liberty Builders*, 336 S.C. at 666, 521 S.E.2d at 753-54; *Rhodes*, 374 S.C. at 124, 647 S.E.2d at 250 (holding a party waives its right to compel arbitration by engaging in “extensive discovery”). In many scenarios, courts have declined to find that a party waived its right to compel arbitration ***even after*** limited discovery had been completed. *Gen. Equip.*, 344 S.C. at 556, 544 S.E.2d at 645 (no waiver of right to compel arbitration where the parties engaged in “limited discovery which did not involve the taking of depositions or extensive interrogatories”); *Toler’s Cove*, 355 S.C. at 612, 586 S.E.2d at 585 (responding to written discovery requests were insufficient to constitute waiver of right to compel arbitration); *Dean v. Heritage Healthcare of Ridgeway, LLC*, 408 S.C. 371, 388, 759 S.E.2d 727, 736 (2014) (engaging in limited discovery was insufficient to constitute a waiver of right to compel arbitration).

Here, Starbucks has not engaged in any discovery. No depositions have been conducted. The only discovery which has been served in this matter was initiated by Plaintiffs, not Starbucks.⁵ Despite Plaintiffs’ claim, the evidence here does not establish that Starbucks has engaged in “extensive discovery” before seeking to compel arbitration – the opposite is true, as Starbucks has engaged in zero discovery.

Plaintiffs’ claim that Starbucks waived its right to compel arbitration because it sought to dismiss this matter on procedural/jurisdictional grounds is likewise unavailing. (Pls.’ Memo. at 6-

⁵ In timely responding to Plaintiffs’ discovery, Starbucks merely objected and noted its position that Plaintiffs’ claims were subject to arbitration, and thus discovery was improper.

9.) The analysis employed by courts when analyzing waiver in the context of a motion to compel arbitration does not include any consideration of the moving party's efforts to address the court's lack of subject matter jurisdiction in initial pleadings before seeking to compel arbitration. *Rhodes*, 374 S.C. at 126, 647 S.E.2d at 251; *Gen. Equip.*, 344 S.C. at 556, 544 S.E.2d at 645; *Toler's Cove*, 355 S.C. at 612, 586 S.E.2d at 585; *Rich*, 357 S.C. at 67, 590 S.E.2d at 507.

Indeed, the only authority which Plaintiffs cite in support of this argument is precedent from outside this state and its respective federal courts. (Pls.' Memo at 8.) Plaintiffs' failure to provide the Court with any South Carolina authority to support their arguments concerning waiver here is quite telling and is a product of the fact that their arguments on this issue are directly contradicted by black-letter South Carolina law. See *Carlson*, 404 S.C. 250, 257-258, 743 S.E.2d 868, 872-73; *Toler's Cove*, 355 S.C. at 612, 586 S.E.2d at 585. Indeed, South Carolina courts have made it crystal clear that engaging a court to address administrative or procedural issues before seeking to compel arbitration **does not** constitute a waiver of a right to compel arbitration. *Rich*, 357 S.C. at 67, 590 S.E.2d at 507 (engaging in procedural maneuvering prior to seeking to compel arbitration does not constitute a waiver); *Toler's Cove*, 355 S.C. at 612, 586 S.E.2d at 585 (engaging in efforts to address procedural/jurisdictional issues related to counterclaims and third-party practice were insufficient to constitute waiver of right to compel arbitration).

In *Carlson*, the South Carolina Court of Appeals held that a party did not waive its right to compel arbitration by filing a motion to dismiss on jurisdictional/procedural grounds before seeking to compel arbitration. *Carlson*, 404 S.C. at 257, 743 S.E.2d at 872. In so holding, the appellate court noted that the moving party, like Starbucks here, had "raised the issue of arbitration since the inception of the action" and that no discovery had been completed by the moving party. *Id.* In fact, the Court of Appeals noted that the moving party's two-year delay in seeking to compel

arbitration was even insufficient to warrant a finding that the moving party waived its right to compel arbitration. *Id.* at 258, 743 S.E.2d at 872-73.

Here, Starbucks has only (1) answered the Complaint and (2) moved to dismiss based upon a lack of subject matter jurisdiction. Starbucks' Motion to Dismiss centered upon a complex jurisdictional issue regarding the exclusive jurisdiction of the NLRB. Thus, Starbucks' prior Motion was solely a procedural matter related to jurisdiction.

The fact of the matter is that Starbucks raised the issue of arbitrability from the inception of this case, and the relief Starbucks seeks in this Motion comes as absolutely no surprise to Plaintiffs. (Def.'s Answer at ¶ 75.) Starbucks' actions in this case are insufficient as a matter of law to constitute a waiver of Starbucks' right to compel arbitration. *See Carlson*, 404 S.C. at 257-258, 743 S.E.2d at 872-73. Therefore, this Court should grant Starbucks' Motion.

C. Plaintiffs' Claims are Within the Scope of the Arbitration Agreement.

Plaintiffs also incorrectly argue that the elements of their causes of action govern this Court's analysis concerning the scope of the Agreement. (Pls.' Memo. at 9-11.) This argument is unsupported by South Carolina law.

It is well-established that South Carolina courts look to the “*factual allegations underlying [a] claim*”, and not the elements of the claims themselves, to determine whether a claim is within the scope of an arbitration agreement. *Zabinski v. Bright Acres Assocs.*, 346 S.C. 580, 597, 553 S.E.2d 110, 118 (2001) (emphasis added). “[U]nless the Court can say with positive assurance that the arbitration clause is not susceptible to an interpretation that covers the dispute, arbitration should be ordered.” *Carolina Care Plan, Inc. v. United Healthcare Services, Inc.*, 361 S.C. 544, 550, 606 S.E.2d 752, 755 (2004). Even if a court has doubts about the scope of an arbitration

agreement, those doubts “should be resolved in favor of arbitration.” *Zabinski*, 346 S.C. at 589, 553 S.E.2d at 118.

Here, the Agreement applies to “Covered Claims,” which are defined broadly as follows:

‘Covered Claims’ are those brought under any statute, local ordinance, **or common law** relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

(Ex. A) (emphasis added.) In other words, the Agreement applies to any common law claim which, as Plaintiffs’ claims plainly do, relate to Plaintiffs’ employment with Starbucks.

Contrary to Plaintiffs’ arguments, South Carolina courts have routinely held that tort claims brought by employees against their employer fall within (and are subject to) arbitration agreements even though the claims are not “traditional employment-law claims.” See *Landers v. Fed. Deposit Ins. Corp.*, 402 S.C. 100, 110, 739 S.E.2d 209, 214 (2013) (holding that claims for defamation and intentional infliction of emotional distress were subject to the arbitration agreement between an employer and its employee); *Towles v. United HealthCare Corp.*, 338 S.C. 29, 41-42, 524 S.E.2d 839, 846-847 (Ct. App. 1999) (holding that an employee’s tort claims, including, defamation, conspiracy, negligent supervision, and reckless or intentional infliction of emotional distress were subject to the arbitration agreement between employee and employer where the arbitration agreement included references to specific employment-law claims as well as “all other tort or contract theories” related to that employment); *Lampo v. Amedisys Holding, LLC*, 437 S.C. 236, 244-45, 877 S.E.2d 486, 491 (S.C. Ct. App. 2022) (holding that arbitration agreement between employer and employee applied to employee’s tort claims for defamation and interference with prospective contractual relations).

Notably, the United States District Court for the District of California reached a similar conclusion in *Sabouhi v. Starbucks Corp.*, Case No. 2:21-04446, 2022 WL 2101727, at *2 (C.D. Cal. Mar. 14, 2022) (district court granting motion to compel arbitration where the claims at issue included a common law defamation claim). A copy of this decision is attached hereto as **Exhibit B**.

In the instant case, Plaintiff's common law claims inextricably relate to their employment with Starbucks. Indeed, Plaintiffs' Complaint makes clear that the alleged facts which support Plaintiffs claims are inseparably tethered to Plaintiffs' employment with Starbucks and are indeed premised upon Defendants' response to an incident that occurred in the workplace. Thus, because Plaintiffs' Complaint makes it clear that their claims relate to their employment with Starbucks and the arbitration clause has expansive breadth, Plaintiffs' claims are subject to arbitration. See *Landers*, 402 S.C. at 111, 739 S.E. 2d at 214 ("under the expansive reach of the FAA a tort claim need not raise an issue that requires reference to or the construction of some portion of the contract in order to be encompassed by a broadly-worded arbitration clause").

Certainly, this Court cannot say with "positive assurance" that Plaintiffs' claims are not "Covered Claims" under the Agreement. *Carolina Care Plan, Inc.*, 361 S.C. at 550, 606 S.E.2d at 755 (2004). As outlined above, the facts which Plaintiffs rely upon to support their claims relate to their employment with Starbucks and therefore are "Covered Claims" under the Agreement. At best, there may be some dispute concerning the scope of the Agreement. However, even if there exists any doubt concerning the scope of the arbitration agreement at issue here, those doubts "should be resolved in favor of arbitration." *Zabinski*, 346 S.C. at 589, 553 S.E.2d at 118. Indeed, "any doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration."

O'Neil v. Hilton Head Hosp., 115 F.3d 272, 273-74 (4th Cir. 1997). Accordingly, this Court must therefore compel arbitration.

D. The “Outrageous Tort” Exception is Inapplicable to This Dispute.

In their opposition brief, Plaintiffs argue that this Court should deny Starbucks’ Motion based upon a purported “outrageous torts exception.” (Pls.’ Memo. at 4, 11-12.) Plaintiffs’ argument is utterly without merit, and must be rejected.

In support of their novel argument, Plaintiffs cite the inapposite case of *Aiken v. World Finance Corp. of SC*, 373 S.C. 144, 151, 644 S.E.2d 705, 709 (2007), a case involving intentional tort claims brought by a borrower against a consumer finance company based on the finance company’s employees misuse of the borrower’s personal financial information. Finding the criminal theft of Aiken’s personal information to be outrageous conduct that could not have been foreseen when he agreed to do business with World Finance, the Court found Aikens’ tort claims were not subject to arbitration. *Id.* The *Aiken* decision simply has no bearing here.

First, unlike the agreement in *Aiken*, here, Starbucks and Plaintiffs have expressly agreed that the question of whether their claims are arbitrable must be decided by the arbitrator, not this Court. (Ex. A.) In *Aiken*, that question had not been preserved for appeal. 373 S.C. at 149, 644 S.E.2d at 708. As subsequent South Carolina appellate decisions have made crystal clear, whether the exception for outrageous acts applies relates to the arbitrability of the dispute and must be left to the arbitrator, not the court, to resolve. *See Palmetto Wildlife Extractors, LLC v. Ludy*, 435 S.C. 690, 869 SE.2d 859 (Ct. App. 2022) (citing *Doe*, 430 S.C. 602, 846 S.E.2d 874). “[W]hether the exception applies is a question the parties delegated to the arbitrator, not the court.” *Doe*, 430 S.C. at 616, 846 S.E.2d at 881. “Because the outrageous and unforeseen torts exception relates to ... the arbitrability of the dispute[,] ... precedent requires that we honor the parties’ choice to leave the

issue of the exception to the arbitrator.” *Id.* (citing *Chassereau v. Glob. Sun Pools, Inc.*, 373 S.C. 168, 171, 644 S.E.2d 718, 720 (2007) (treating the outrageous and unforeseen torts exception as a question of the arbitrability of a claim and noting, “[u]nless the parties provide otherwise, the question of the arbitrability of a claim is an issue for judicial determination” (emphasis added).)

Here, the Agreement provides that the parties “agree that the Arbitrator – and not a court or agency – shall have **exclusive authority to resolve any dispute** regarding the formation, interpretation, applicability, enforceability, or implementation of [the] Agreement.” (Ex. A.) (emphasis added). As such, the issue of whether this exception applies is a matter solely within the purview of the arbitrator.

Moreover, the facts of this case simply do not align with the exception expressed in *Aiken*. In reaching this conclusion, one only need reference Plaintiffs’ Complaint. Plaintiffs themselves have inextricably bound their claims to the employment context by claiming Defendants’ actions spawned from an incident in the workplace where Plaintiffs were protesting the terms and conditions of their employment, and that Defendants’ actions were motivated by a desire to prevent Plaintiffs from engaging in such activities in the workplace. As discussed above, South Carolina courts have consistently held that such tort claims, including defamation, fall within the scope of a broad arbitration clause between employer and employee. *See Landers*, 402 S.C. at 109, 739 S.E.2d at 213 (2013) (finding Landers’ defamation claim arbitrable because the alleged defamatory statements “directly related to Landers’ ability to perform his duties with Bank”); *Pearson v. Hilton Head Hosp.*, 400 S.C. 281, 297, 733 S.E.2d 597, 605 (Ct. App. 2012) (finding Pearson’s tort claims, including defamation, arbitrable because the arbitration clause was broad and Pearson’s tort claims resulted from his employment); *Towles*, 338 S.C. at 42, 524 S.E.2d at 846 (finding Towles’ defamation claim arbitrable because the agreement’s plain language covered all

tort and contract theories).

Indeed, as evidenced by the *Sabouhi* decision, the scope of the specific arbitration clause before the Court in this case is sufficiently broad to encompass tort claims by an employee, including defamation. (Ex. B.) Accordingly, Starbucks' Motion should be granted and Plaintiffs' Complaint should be dismissed in favor of arbitration.

III. CONCLUSION

Starbucks did not waive its right to compel arbitration and Plaintiffs' claims clearly fall within the scope of the Starbucks Mutual Arbitration Agreement. As such, Starbucks respectfully requests that the Court dismiss this case or, in the alternative, stay this action and order Plaintiffs to arbitrate their claims.

Respectfully submitted this 13th day of June, 2023.

LITTLER MENDELSON, P.C

/s/ William H. Foster

William H. Foster, Bar No. 6221

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Attorneys for Defendant Starbucks Corporation

**STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON**

Plaintiffs: Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada, Braden Terrill, and Aneil Tripathi
Defendants: Starbucks Corporation and Melissa Morris
Case No.: 2022-CP-04-02159

Exhibit A

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

Except as provided below, Starbucks and I agree that the Arbitrator - and not a court or agency - shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

At Will Employment Unchanged by this Agreement. Nothing in this Agreement changes or in any manner modifies my employment-at-will relationship with Starbucks. This Agreement shall remain in effect even after the termination of my employment with Starbucks.

Claims Not Covered by this Agreement. Claims excluded from this Agreement are: (a) claims for workers' compensation, unemployment, or other benefits under a plan or program that provides its own process for dispute resolution; (b) claims for which this Agreement would be invalid as a matter of law; (c) actions to enforce this Agreement, compel arbitration, or enforce or vacate an arbitrator's award under this Agreement; (d) claims asserted on my behalf by another individual if that claim was the subject of a motion to certify a class or collective action and that motion was filed before I entered into this Agreement; and (e) a claim or charge filed with a federal, state, or local administrative agency such as the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, Department of Fair Employment and Housing, the California Labor Commissioner, or other similar agency, though I am giving up the opportunity to recover monetary amounts from any such governmental agency related claim and instead am able to pursue a claim for monetary amounts through arbitration under this Agreement.

I understand that under the National Labor Relations Act I may be entitled to act concertedly or cooperate with others to challenge this Agreement in any forum. I understand Starbucks will not retaliate against me if I act concertedly or cooperate with others to challenge this Agreement.

Except as otherwise indicated above, this Agreement shall be enforceable under and subject to the Federal Arbitration Act, 9 U.S.C. Sections 1 et. seq.

Right to Representation. Both Starbucks and I shall have the right to be represented by an attorney in arbitration. Each side will pay its own attorneys' fees and costs, unless the Arbitrator rules otherwise consistent with applicable law.

How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
Starbucks Coffee Company
2401 Utah Avenue South, S-LA 1
Seattle, Washington 98134

v20200101

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

- a. **Costs.** Starbucks will pay the Arbitrator's fees and the arbitration filing and administrative fees, less my initial payment for the applicable filing fee.
- b. **Location.** The arbitration shall take place at a mutually-convenient location in the state where I work (or most recently worked) for Starbucks.
- c. **Selecting the Arbitrator.** The parties shall confer and attempt to mutually agree on an Arbitrator. If the parties cannot agree, the parties shall contact AAA and request that AAA provide the parties a list of nine arbitrators. The parties shall confer in person or by telephone and select the Arbitrator who will hear the Covered Claim from this list. The party demanding arbitration shall strike a name first, and then the responding party, alternating strikes until only one name remains, who shall be the selected Arbitrator unless he or she is unavailable or otherwise unable to serve.
- d. **Discovery of Evidence.**
 - (i) Each party shall be entitled to 25 interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure ("FRCP").
 - (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP.
 - (iii) Each party shall be entitled a maximum of two eight-hour days of depositions of witnesses, not including experts, in a form consistent with Rule 30 of the FRCP.

Each party shall be entitled to one expert deposition, if necessary, in a form consistent with Rules 26 and 30 of the FRCP.
- e. **Arbitrator's Authority.**
 - (i) The Arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling law and this Agreement. Except as otherwise provided in this Agreement, the Arbitrator shall apply, and shall not deviate from, the substantive law of the state in which the claim(s) arose and/or federal law, as applicable.
 - (ii) The Arbitrator shall have the authority to issue an award or partial award on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact, consistent with Rules 12 and 56 of the FRCP.
 - (iii) The Arbitrator shall decide all disputes related to discovery and may allow additional discovery upon a showing of substantial need by either party or upon a showing of an inability to pursue or defend certain claims. However, consistent with the above prohibition on class, collective, and representative actions, the Arbitrator shall not have authority to order discovery related to any purported class, collective, or representative action.
 - (iv) The Arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The Arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the Arbitrator shall not have the authority to order any remedy that a court would not be authorized to order.
 - (v) The Arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration. Therefore, no decision by any Arbitrator shall serve as precedent in other arbitrations, except in a dispute between Starbucks and me to preclude the same claim from being re-arbitrated.
- f. **Outcome.** No later than 30 days from the date the arbitration hearing concludes, the Arbitrator must issue an award in writing, setting forth in summary form the factual and legal basis for the Arbitrator's determination.

Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision.

ACKNOWLEDGEMENT

Skylar Blume

Signed by

4/7/20

Date

IP Address: 97.82.204.190

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Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

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ACKNOWLEDGEMENT

Maisie Dowis

4/20/19

Signed by

Date

IP Address: 24.216.34.19

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v20200101

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ACKNOWLEDGEMENT

Rhiannon Greer

10/4/21

Signed by

Date

IP Address: 24.178.148.3

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ACKNOWLEDGEMENT

Jonathan Hudson

2/21/18

Signed by

Date

IP Address: 98.99.251.252

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ACKNOWLEDGEMENT

Natalie Mann

5/27/19

Signed by

Date

IP Address: 99.85.126.213

ELECTRONICALLY FILED - 2023 Jun 13 4:55 PM - ANDERSON - COMMON PLEAS - CASE#2022CP0402159

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ACKNOWLEDGEMENT

Mya Ourada

8/16/21

Signed by

Date

IP Address: 45.21.28.78

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Right to Representation. Both Starbucks and I shall have the right to be represented by an attorney in arbitration. Each side will pay its own attorneys' fees and costs, unless the Arbitrator rules otherwise consistent with applicable law.

How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
Starbucks Coffee Company
2401 Utah Avenue South, S-LA 1
Seattle, Washington 98134

v20200101

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

- a. **Costs.** Starbucks will pay the Arbitrator's fees and the arbitration filing and administrative fees, less my initial payment for the applicable filing fee.
- b. **Location.** The arbitration shall take place at a mutually-convenient location in the state where I work (or most recently worked) for Starbucks.
- c. **Selecting the Arbitrator.** The parties shall confer and attempt to mutually agree on an Arbitrator. If the parties cannot agree, the parties shall contact AAA and request that AAA provide the parties a list of nine arbitrators. The parties shall confer in person or by telephone and select the Arbitrator who will hear the Covered Claim from this list. The party demanding arbitration shall strike a name first, and then the responding party, alternating strikes until only one name remains, who shall be the selected Arbitrator unless he or she is unavailable or otherwise unable to serve.
- d. **Discovery of Evidence.**
 - (i) Each party shall be entitled to 25 interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure ("FRCP").
 - (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP.
 - (iii) Each party shall be entitled a maximum of two eight-hour days of depositions of witnesses, not including experts, in a form consistent with Rule 30 of the FRCP.

Each party shall be entitled to one expert deposition, if necessary, in a form consistent with Rules 26 and 30 of the FRCP.
- e. **Arbitrator's Authority.**
 - (i) The Arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling law and this Agreement. Except as otherwise provided in this Agreement, the Arbitrator shall apply, and shall not deviate from, the substantive law of the state in which the claim(s) arose and/or federal law, as applicable.
 - (ii) The Arbitrator shall have the authority to issue an award or partial award on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact, consistent with Rules 12 and 56 of the FRCP.
 - (iii) The Arbitrator shall decide all disputes related to discovery and may allow additional discovery upon a showing of substantial need by either party or upon a showing of an inability to pursue or defend certain claims. However, consistent with the above prohibition on class, collective, and representative actions, the Arbitrator shall not have authority to order discovery related to any purported class, collective, or representative action.
 - (iv) The Arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The Arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the Arbitrator shall not have the authority to order any remedy that a court would not be authorized to order.
 - (v) The Arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration. Therefore, no decision by any Arbitrator shall serve as precedent in other arbitrations, except in a dispute between Starbucks and me to preclude the same claim from being re-arbitrated.
- f. **Outcome.** No later than 30 days from the date the arbitration hearing concludes, the Arbitrator must issue an award in writing, setting forth in summary form the factual and legal basis for the Arbitrator's determination.

Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision.

ACKNOWLEDGEMENT

Braden Terrill

11/7/21

Signed by

Date

IP Address: 174.216.0.18

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

Except as provided below, Starbucks and I agree that the Arbitrator – and not a court or agency – shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

At Will Employment Unchanged by this Agreement. Nothing in this Agreement changes or in any manner modifies my employment-at-will relationship with Starbucks. This Agreement shall remain in effect even after the termination of my employment with Starbucks.

Claims Not Covered by this Agreement. Claims excluded from this Agreement are: (a) claims for workers' compensation, unemployment, or other benefits under a plan or program that provides its own process for dispute resolution; (b) claims for which this Agreement would be invalid as a matter of law; (c) actions to enforce this Agreement, compel arbitration, or enforce or vacate an arbitrator's award under this Agreement; (d) claims asserted on my behalf by another individual if that claim was the subject of a motion to certify a class or collective action and that motion was filed before I entered into this Agreement; and (e) a claim or charge filed with a federal, state, or local administrative agency such as the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, or similar agency, though I am giving up the opportunity to recover monetary amounts from any such governmental agency related claim and instead am able to pursue a claim for monetary amounts through arbitration under this Agreement.

I understand that under the National Labor Relations Act I may be entitled to act concertedly or cooperate with others to challenge this Agreement in any forum. I understand Starbucks will not retaliate against me if I act concertedly or cooperate with others to challenge this Agreement.

Right to Representation. Both Starbucks and I shall have the right to be represented by an attorney in arbitration. Each side will pay its own attorneys' fees and costs, unless the Arbitrator rules otherwise consistent with applicable law.

How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
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Seattle, Washington 98134

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and www.law.cornell.edu/rules/frcp/rule_68, respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

- a. **Costs.** Starbucks will pay the Arbitrator's fees and the arbitration filing and administrative fees, less my initial payment for the applicable filing fee.
- b. **Location.** The arbitration shall take place at a mutually-convenient location in the state where I work (or most recently worked) for Starbucks.
- c. **Selecting the Arbitrator.** The parties shall confer and attempt to mutually agree on an Arbitrator. If the parties cannot agree, the parties shall contact AAA and request that AAA provide the parties a list of nine arbitrators. The parties shall confer in person or by telephone and select the Arbitrator who will hear the Covered Claim from this list. The party demanding arbitration shall strike a name first, and then the responding party, alternating strikes until only one name remains, who shall be the selected Arbitrator unless he or she is unavailable or otherwise unable to serve.
- d. **Discovery of Evidence.**
 - (i) Each party shall be entitled to three interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure ("FRCP").
 - (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP.
 - (iii) Each party shall be entitled a maximum of two eight-hour days of depositions of witnesses in a form consistent with Rule 30 of the FRCP.
- e. **Arbitrator's Authority.**
 - (i) The Arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling law and this Agreement. Except as otherwise provided in this Agreement, the Arbitrator shall apply, and shall not deviate from, the substantive law of the state in which the claim(s) arose and/or federal law, as applicable.
 - (ii) The Arbitrator shall have the authority to issue an award or partial award on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact, consistent with Rules 12 and 56 of the FRCP.
 - (iii) The Arbitrator shall decide all disputes related to discovery and may allow additional discovery upon a showing of substantial need by either party or upon a showing of an inability to pursue or defend certain claims. However, consistent with the above prohibition on class, collective, and representative actions, the Arbitrator shall not have authority to order discovery related to any purported class, collective, or representative action.
 - (iv) The Arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The Arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the Arbitrator shall not have the authority to order any remedy that a court would not be authorized to order.
 - (v) The Arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration. Therefore, no decision by any Arbitrator shall serve as precedent in other arbitrations, except in a dispute between Starbucks and me to preclude the same claim from being re-arbitrated.
- f. **Outcome.** No later than 30 days from the date the arbitration hearing concludes, the Arbitrator must issue an award in writing, setting forth in summary form the factual and legal basis for the Arbitrator's determination.

Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision. Should a court or arbitrator determine that arbitration is unavailable for any reason, the parties agree and stipulate that they hereby waive any right to a jury and instead agree and stipulate that the claim(s) at issue will be heard only by a judge.

ACKNOWLEDGEMENT

Aneil Tripathi

6/4/19

Signed by

Date

IP Address: 98.25.5.226

ELECTRONICALLY FILED - 2023 Jun 13 4:55 PM - ANDERSON - COMMON PLEAS - CASE#2022CP0402159

**STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON**

Plaintiffs: Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada, Braden Terrill, and Aneil Tripathi
Defendants: Starbucks Corporation and Melissa Morris
Case No.: 2022-CP-04-02159

Exhibit B

2022 WL 2101727

Only the Westlaw citation is currently available.
United States District Court, C.D. California.

Farnaz SABOUHI, Plaintiff,

v.

STARBUCKS CORPORATION; and Does 1
through 20, inclusive, Defendants.

Case No.: 2:21-cv-04446 MEMF (PLAx)

Signed 03/14/2022

Attorneys and Law Firms

Michael J. Freiman, Freiman and Freiman, Santa Monica,
CA, for Plaintiff.

Gina M. Tetorakis, Leslie Hecht Helmer, Melis Atalay,
Julie Gladstone, Ogletree Deakins Nash Smoak and
Stewart PC, Los Angeles, CA, for Defendants.

**ORDER GRANTING DEFENDANT STARBUCKS
CORPORATION'S PETITION TO COMPEL
ARBITRATION AND STAY PROCEEDINGS [ECF
NO. 11]**

MAAME EWUSI-MENSAH FRIMPONG, United States
District Judge

*1 Before the Court is Defendant Starbucks Corporation's ("Starbucks") Petition to Compel Arbitration and Stay Proceedings ("Petition"). ECF No. 11. On March 10, 2022, the Court held a hearing on Starbucks's Petition. For the reasons provided below, the Court GRANTS Starbucks's Petition and STAYS Ms. Sabouhi's claims.

I. Background**A. Factual Background**

Plaintiff Farnaz Sabouhi filed this action against Starbucks on April 26, 2021, in Los Angeles Superior Court. ECF No. 1–2 ("Complaint"). Ms. Sabouhi alleges seventeen causes of action arising out of Ms. Sabouhi's prior employment with Starbucks: (1) discrimination in violation of the Fair Employment and Housing Act ("FEHA"); (2) failure to prevent discrimination in violation of FEHA; (3) failure to engage in the interactive process in violation of FEHA; (4) failure to provide reasonable accommodation in violation of FEHA; (5) retaliation in violation of FEHA; (6) wrongful discharge in violation of public policy; (7) violation of California Labor Code § 344¹; (8) harassment in violation of FEHA; (9) failure to prevent harassment in violation of FEHA; (10) violation of Labor Code § 98.6; (11) violation of Labor Code § 1102.5; (12) violation of Labor Code § 6310; (13) failure to pay minimum wage, agreed upon wage, and overtime pay in violation of Labor Code; (14) failure to provide accurate wage statements in violation of Labor Code § 226; (15) failure to pay all amounts due upon separation from employment in violation of Labor Code §§ 201, 202, and 203; (16) violation of California Family Rights Act; and (17) **defamation**. *Id.*

B. Procedural History

Starbucks removed this case on May 27, 2021. ECF No. 1.

On August 26, 2021, Starbucks filed this Petition to **Compel Arbitration**. ECF No. 11. Ms. Sabouhi has not filed an opposition.² On October 4, 2021, Starbucks filed a Notice of Non-Receipt of Opposition, requesting that the Court preclude Ms. Sabouhi from offering any oral argument at the hearing on Starbucks's Petition.³ ECF No. 27. The judge previously presiding over this case continued the hearing on the Petition from November 29, 2021, to April 11, 2022. ECF No. 28. Pursuant to an Order of the Chief Judge, this case was transferred to this Court on February 10, 2022. ECF No. 34. On February 15, 2022, this Court issued a Reassignment Order that, among other actions, vacated the April 11, 2022 hearing date and required the parties to submit a Joint Case Management Statement. ECF No. 35.

*2 In the parties' Joint Case Management Statement, submitted on March 2, 2022, Ms. Sabouhi requested that the Court continue the hearing on Starbucks's Petition by at least 21 days to allow Ms. Sabouhi to file an

opposition. ECF No. 37. Starbucks, in the same Statement, argued that the Joint Case Management Statement was an improper mode for Ms. Sabouhi to request a continuance. *Id.* Starbucks further argued that Ms. Sabouhi was not entitled to an extension on her deadline to file an opposition, which expired in September 2021. *Id.* In the absence of a properly noticed motion for leave to file an opposition, the Court declined to address this request.⁴

C. Arbitration Agreement

In support of its Petition, Starbucks submitted the declaration of Kathryn Daly, Director of Talent Acquisition for U.S. Retail for Starbucks, describing the application and hiring process across the company. *See* ECF No. 13 (“Daly Decl.”). The following description of the Starbucks application and hiring process, both generally and for Ms. Sabouhi specifically, comes from Ms. Daly’s declaration.⁵

Beginning around October 1, 2014, Starbucks required as a condition of employment that all new hires agree to arbitrate any claims arising out of their employment. *Id.* at ¶ 3. Applicants are required to apply through an online system called Taleo, which Ms. Sabouhi used when she applied on July 27, 2016. *Id.* at ¶¶ 4–5. To apply, the system requires an applicant to create a user account which requires entering a username, password, the applicant’s first and last name, and email address. *Id.* at ¶ 6. It then directs the applicant to complete 13 tasks, including uploading their resume and answering pre-screening questions. *Id.* at ¶ 7. Task 12 in the application, entitled “Application Confirmation,” contains the following disclosure: **“As of October 1, 2014, Starbucks Corporation requires as a condition of employment for certain positions that the employee will be subject to an arbitration agreement.”** *Id.* at ¶ 8. To continue to the next page, applicants are required to acknowledge their review and approval of the disclosures on the “Application Confirmation” page by entering their full name and clicking “Continue.” *Id.*; *see also* ECF No. 13-3, Exhibit C. The system does not allow the applicant to continue to the next page or submit their application without acknowledging the disclosures. Daly Decl. at ¶ 8.

When Ms. Sabouhi received an offer of employment, she was required to use Taleo again to complete the “Employee Onboarding” process. *Id.* at ¶ 9. As part of this process, Ms. Sabouhi typed her name to electronically sign an “e-Consent” page, indicating her consent to receive and respond to information electronically and to

execute any documents requiring a signature with an e-signature. *Id.* at ¶ 10. Ms. Sabouhi was later required to view and sign Starbucks’s Mutual Arbitration Agreement (“Arbitration Agreement” or “Agreement”). *Id.* at ¶¶ 11–12.

The Arbitration Agreement provides:

Starbucks and I agree to use binding individual arbitration to resolve any “Covered Claims” that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, “Starbucks”). “Covered Claims” are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

***3 Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court.** The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

ECF No. 14-3, Exhibit 3. The Arbitration Agreement further provides that: (1) each party will pay its own attorneys’ fees and costs; (2) the parties will engage in limited discovery; and (3) the parties shall attempt to agree on a mutual arbitrator. *Id.*

To acknowledge review and acceptance of the Arbitration Agreement, Ms. Sabouhi entered her account login password to provide her electronic signature. Daly Decl. at ¶ 12; *see also* ECF No. 13-6, Exhibit F. Once a new hire signs the form, Taleo automatically sends a confirmation email to the email address on file confirming that they signed the Arbitration Agreement and completed the onboarding process. Daly Decl. at ¶ 15.

II. Legal Standard

Under Section 2 of the Federal Arbitration Act (“FAA” or the “Act”), arbitration clauses in contracts “shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.”  9 U.S.C. § 2. The FAA reflects the

“fundamental principle that arbitration is a matter of contract.” *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 339 (2011) (quoting *Rent-A-Center, West, Inc. v. Jackson*, 561 U.S. 63, 67 (2010)).

In determining whether to compel arbitration, the court must consider two gateway factors: (1) whether there is an agreement to arbitrate between the parties; and (2) whether the agreement covers the dispute. *Brennan v. Opus Bank*, 796 F.3d 1125, 1130 (9th Cir. 2015) (quoting *Howsam v. Dean Witter Reynolds, Inc.*, 537 U.S. 79, 84 (2002)). Moreover, arbitration agreements may be invalidated by “generally applicable contract defenses, such as fraud, duress, or unconscionability, but not by defenses that apply only to arbitration or that derive their meaning from the fact that an agreement to arbitrate is at issue.” *Concepcion*, 563 U.S. at 343 (internal quotation marks omitted) (citing *Doctor’s Assoc., Inc. v. Casarotto*, 517 U.S. 681, 687 (1996)). The Act “leaves no place for the exercise of discretion by a district court, but instead mandates that district courts shall direct the parties to proceed to arbitration on issues as to which an arbitration agreement has been signed.” *Dean Witter Reynolds, Inc. v. Byrd*, 470 U.S. 213, 218 (1985).

It has long been established that a contract containing an arbitration clause gives rise to a presumption of arbitrability. *Comedy Club, Inc. v. Improv W. Assocs.*, 553 F.3d 1277, 1284 (9th Cir. 2009) (citing *AT&T Techs., Inc.*, 475 U.S. at 650); see also *Three Valleys Mun. Water Dist. v. E. F. Hutton & Co.*, 925 F.2d 1136, 1139 (9th Cir. 1991) (“[A]ny doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration, whether the problem at hand is the construction of the contract language itself or an allegation of waiver, delay, or a like defense to arbitrability.” (quoting *Moses H. Cone*, 460 U.S. at 24)).

III. Discussion

*4 In filing the instant Petition, Starbucks seeks to compel the entire action to binding arbitration pursuant to the Arbitration Agreement signed by Ms. Sabouhi during her Employee Onboarding process. Petition at ¶ 2. Starbucks contends that it can compel arbitration because: (1) Ms. Sabouhi entered into an agreement to arbitrate her claims by signing the Arbitration Agreement; (2) Ms. Sabouhi’s

claims fall within the scope of the Agreement; and (3) there are no grounds for revocation of the Agreement. Memorandum of Points and Authorities in Support of Starbucks’s Petition to Compel Arbitration and Stay Proceedings (“Memo”), at 12–20. The Petition also seeks to stay the action pending arbitration under 9 U.S.C. § 3. Memo at 19.

Ms. Sabouhi contends that the Agreement cannot be enforced because the FAA is unconstitutional, and the Agreement is procedurally and substantively unconscionable.⁶

A. The FAA Applies to This Dispute and Is Constitutional

First, the Court will consider the constitutionality of the FAA. As an initial matter, during the hearing on this Motion, counsel for Ms. Sabouhi conceded that the FAA, if constitutional, would apply to this dispute. However, counsel for Ms. Sabouhi argued that the FAA violates the right to a trial by jury enshrined in the Seventh Amendment, the right to due process, and the right to equal protection. However, Ms. Sabouhi’s arguments are unavailing.⁷ Numerous courts have upheld the constitutionality of the FAA. See, e.g., *Marine Transit Corp. v. Dreyfus*, 284 U.S. 263 (1932) (upholding FAA against charge of depriving parties of their rights to due process of law); *Gardner v. Boettcher & Co., Inc.*, 872 F.2d 427 (tbl.), 1989 WL 37239, at *3 (9th Cir. April 14, 1989) (rejecting argument that compelling arbitration under FAA denied party of their Seventh Amendment right to jury trial); *Kyocera Corp. v. Prudential-Bache Trade Servs., Inc.*, 341 F.3d 987, 997–98 (9th Cir. 2003) (characterizing a provision of the FAA as “a limitation that is *designed to preserve due process* but not to permit unnecessary public intrusion into private arbitration procedures” (emphasis added)). Accordingly, the Court concludes that the FAA is constitutional and applies to this dispute.

B. A Valid Arbitration Agreement Exists Between the Parties

Next, the Court will consider whether an agreement to arbitrate exists between the parties. Starbucks contends that Ms. Sabouhi’s electronic signature created a binding arbitration agreement. “In California, [g]eneral principles of contract law determine whether the parties have

entered a binding agreement to arbitrate.”  *Pinnacle Museum Tower Ass’n. v. Pinnacle Mkt. Dev. (US), LLC*, 282 P.3d 1217, 1224 (Cal. 2012) (internal quotation marks omitted). The burden is on the party seeking arbitration to prove the existence of an arbitration agreement.  *Id.* at 1224–25.

*5 Here, Ms. Sabouhi does not dispute that she submitted an electronic signature acknowledging and accepting Starbucks’s Arbitration Agreement during her onboarding process.⁸

In light of the above, the Court finds that Starbucks has adequately met its burden of proof in establishing a valid arbitration agreement exists between the parties.

C. Ms. Sabouhi’s Claims Fall Within the Scope of the Parties’ Arbitration Agreement

Third, the Court considers whether Ms. Sabouhi’s claims are encompassed by the parties’ Arbitration Agreement. Starbucks argues that they are. As discussed above, the Arbitration Agreement provides, in relevant part:

Starbucks and I agree to use binding individual arbitration to resolve any “Covered Claims” that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, “Starbucks”). “Covered Claims” are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

ECF No. 14-3, Exhibit 3 (emphasis added). Ms. Sabouhi has made no argument here that any of her claims are beyond the scope of the Arbitration Agreement. To the contrary, at the March 10, 2022 hearing, counsel for Ms. Sabouhi acknowledged that all of Ms. Sabouhi’s claims relate to her employment—and therefore would all be

within the scope of the Agreement. Accordingly, the Court finds that the provisions of the Agreement encompass all of Ms. Sabouhi’s claims, as they all relate to her employment.

D. The Parties’ Arbitration Agreement Is Not Unconscionable

Finally, Ms. Sabouhi argues that even if the Court determines that an arbitration agreement exists, the agreement is nonetheless unconscionable and therefore unenforceable. Conversely, Starbucks rejects the notion that any grounds exist for revocation of the Arbitration Agreement. “Under California law, a contract must be both procedurally and substantively unconscionable to be rendered invalid.”  *Chavarria v. Ralphs Grocery Co.*, 733 F.3d 916, 922 (9th Cir. 2013) (citing  *Armendariz v. Found. Health Psychcare Servs., Inc.*, 6 P.3d 669, 690 (2000)). Procedural unconscionability “concerns the manner in which the contract was negotiated and the respective circumstances of the parties at that time, focusing on the level of oppression and surprise involved in the agreement.” *Id.* (citing  *Ferguson v. Countrywide Credit Indus., Inc.*, 298 F.3d 778, 783 (9th Cir. 2002);  *A&M Produce Co. v. FMC Corp.*, 186 Cal. Rptr. 114, 121–22 (1982)). On the other hand, substantive unconscionability considers whether an agreement is “unjustifiably one-sided to such an extent that it ‘shocks the conscience.’ ”  *Id.* at 923. Ms. Sabouhi contends that the Agreement is both procedurally and substantively unconscionable.

1. The Parties’ Arbitration Agreement Is Procedurally Unconscionable

*6 Ms. Sabouhi argues that the Arbitration Agreement was procedurally unconscionable because it was a contract of adhesion: Ms. Sabouhi had no opportunity to negotiate its terms and it was drafted by attorneys with superior bargaining power. In its Motion, Starbucks argued that the Agreement in question was not procedurally unconscionable because it was neither oppressive nor involved an element of surprise. Starbucks contended that adhesion contracts even in the employment context have nonetheless been upheld against claims that the clauses were unconscionable. Starbucks further noted that, as for the element of surprise, Ms. Sabouhi received an opportunity to review

the Agreement and seek private legal advice if she so chose prior to signing the Agreement. However, during the hearing on this matter, Starbucks conceded that it does not dispute that the Agreement was a contract of adhesion and that case law indicates that such contracts inherently have some degree of procedural unconscionability. *Id.* at 922–23. (“[A]n arbitration agreement [is] procedurally unconscionable under California law [where] it was imposed upon employees as a condition of their continued employment [W]here ... the employee is facing an employer with ‘overwhelming bargaining power’ who ‘drafted the contract and presented it to [the employee] on a take-it-or-leave-it basis,’ the clause is procedurally unconscionable.”). As a result, the Court finds that this Agreement is procedurally unconscionable.

2. The Parties’ Arbitration Agreement Is Not Substantively Unconscionable

Ms. Sabouhi also argues that the Arbitration Agreement is substantively unconscionable for the following reasons: (1) it does not provide for a trial by jury; (2) it provides for a proceeding with rules inconsistent with the rules that would apply in federal court; (3) it provides for a PAGA waiver; and (4) it provides for limited discovery.

Courts have generally looked at the following five factors to determine if an Arbitration Agreement is substantively unconscionable—whether the Agreement: “(1) provides for neutral arbitrators; (2) provides for more than minimal discovery; (3) requires a written award; (4) provides for all of the types of relief that would otherwise be available in court, and (5) does not require employees to pay either unreasonable costs or any arbitrators’ fees or expenses as a condition of access to the arbitration forum.”

 *Armendariz*, 6 P.3d at 682 (quoting  *Cole v. Burns Int’l Sec. Servs.*, 105 F.3d 1465, 1482 (D.C. Cir. 1997)).

Here, Ms. Sabouhi has failed to present any evidence demonstrating that the Arbitration Agreement was substantively unconscionable. As to her first arguments—that the Agreement does not provide for a trial by jury and provides for a proceeding with rules inconsistent with the rules that would apply in federal court—these would be true for any arbitration agreement, not just the one at issue in the instant matter. However, courts have nonetheless upheld innumerable arbitration agreements despite the lack of a jury trial or implementation of rules other than the Federal Rules of Civil Procedure. *See, e.g., Gardner v. Boettcher & Co., Inc.*, 872 F.2d 427 (tbl.), 1989 WL 37239, at *3 (9th Cir. April 14, 1989) (rejecting argument that compelling

arbitration denied party of their Seventh Amendment right to jury trial);  *Sanchez v. Carmax Auto Superstores Cal., LLC*, 168 Cal. Rptr. 3d 473, 478–80 (2014) (upholding arbitration agreement, despite lack of jury trial or implementation of rules other than Federal Rules of Civil Procedure); *Johnese v. Starbucks Corp.*, 19-cv-04797-HSG (N.D. Cal. Feb. 18, 2020) (ECF No. 19) (same). Ms. Sabouhi’s third argument that the Agreement provides for an invalid PAGA waiver is similarly unavailing. Courts have allowed invalid PAGA waivers to be severed and upheld otherwise valid arbitration agreements, particularly where, as here, the plaintiff has not asserted any PAGA claims and the agreement allows for severability of such terms. *See, e.g., Whitworth v. Solar City Corp.*, 336 F. Supp. 3d 1119, 1130 (N.D. Cal. 2018) (“[T]he PAGA waiver is severable if no PAGA claim is brought.”);  *Mohamed v. Uber Techs., Inc.*, 848 F.3d 1201 (9th Cir. 2016) (allowing severability of invalid PAGA waiver where agreement stated any invalid provision was severable). Here, the Agreement states, in relevant part:

Savings Clause & Conformity

Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision. Should a court or arbitrator determine that arbitration is unavailable for any reason, the parties agree and stipulate that they hereby waive any right to a jury and instead agree and stipulate that the claim(s) at issue will be heard only by a judge.

*7 ECF No. 14-3, Exhibit 3. Because the Agreement allows for severability of any invalid PAGA waiver, and Ms. Sabouhi has not asserted any PAGA claims, the Court finds that the Agreement survives Ms. Sabouhi’s PAGA challenge.

Lastly, Ms. Sabouhi argues that the Arbitration Agreement is substantively unconscionable because it provides for limited discovery. The Agreement provides,

in relevant part:

Discovery of Evidence. (i) Each party shall be entitled to three interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure (“FRCP”). (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP. (iii) Each party shall be entitled to a maximum of two eight-hour days of depositions of witnesses in a form consistent with Rule 30 of the FRCP.

Arbitrator’s Authority. ... (iii) The Arbitrator shall decide all disputes related to discovery and may allow additional discovery upon a showing of substantial need by either party or upon a showing of an inability to pursue or defend certain claims.

Id.

Armendariz held that plaintiffs in an action arising under California law were “entitled to discovery sufficient to adequately arbitrate their statutory claim, including access to essential documents and witnesses, as determined by the arbitrator(s) and subject to limited judicial review.” *Id.* at 684. Although the Agreement allows for limited interrogatories, requests for production of documents, and depositions, it also allows the arbitrator to allow the parties to apply for additional discovery upon a showing of “substantial need.” As a result, the Agreement’s discovery provisions do not “shock[] the conscience,” but rather meet the threshold requirement for “minimal discovery.” See  *Sanchez*, 168 Cal. Rptr. 3d at 478–80 (upholding arbitration agreement providing for less

discovery than court procedures mandate when it allowed parties to apply for additional discovery by showing “substantial need”); *Johnese*, 19-cv-04797-HSG (upholding identical arbitration agreement with same discovery limitations where it allowed parties to apply for additional discovery by showing “substantial need”).

Ms. Sabouhi fails to demonstrate that the Arbitration Agreement is substantively unconscionable. Accordingly, the Court finds the Agreement enforceable and must compel arbitration of Ms. Sabouhi’s claims.

IV. Conclusion

For the reasons stated above, the Court GRANTS Starbucks’s Petition to Compel Arbitration. This action is hereby STAYED pending resolution of the arbitration. The parties shall file a joint report every ninety (90) days, starting from the date of this Order. The parties are also directed to jointly notify the Court within forty-eight (48) hours of the conclusion of the arbitration proceeding. The clerk is directed to administratively close the case.

IT IS SO ORDERED.

All Citations

Slip Copy, 2022 WL 2101727

Footnotes

¹ All future references to “Labor Code” are references to the California Labor Code.

² The Court notes that, per Local Rule 7-12, “failure to file any required document ... within the deadline[] may be deemed consent to the granting or denial of the motion.” In this case, the Court declines to construe Ms. Sabouhi’s failure to file an opposition as such. However, Ms. Sabouhi is advised to file timely motions in compliance with the briefing schedule set forth in the Central District of California’s local rules and this Court’s Standing Order in the future.

³ Although Ms. Sabouhi did not provide a legitimate reason for failing to file a timely opposition to Defendant’s Petition, the Court allowed Ms. Sabouhi to be heard on the merits during the hearing on this matter on March 10, 2022.

Sabouhi v. Starbucks Corporation, Slip Copy (2022)

- ⁴ Nonetheless, the Court has taken into consideration the arguments counsel for Ms. Sabouhi put into the record during the March 10, 2022 hearing regarding the basis of her opposition to Starbucks's Petition. The Court notes that counsel acknowledged at the hearing that his failure to timely file an opposition was due to a calendaring error and inadvertence.
- ⁵ At the March 10, 2022 hearing, counsel for Ms. Sabouhi stated that he has no basis to dispute the facts in the Daly declaration.
- ⁶ Given that no Opposition to this Motion was filed, Ms. Sabouhi set forth these arguments for the first time during the hearing on the Motion. However, because Starbucks had the opportunity to respond to these arguments at the hearing, the Court addresses them below.
- ⁷ The only case law that counsel for Ms. Sabouhi cited in support of this position was  [*Bush v. Gore*, 531 U.S. 98 \(2000\)](#). *Bush v. Gore* held that a manual ballot recount order by a state supreme court, without specific standards to implement its order to discern "intent of the voter," failed to satisfy the requirement for non-arbitrary treatment of voters necessary under the Equal Protection Clause. This case is therefore inapposite and does not support the proposition that enforcing otherwise enforceable arbitration agreements somehow violates the Equal Protection Clause of the U.S. Constitution by treating employees who have entered into such agreements with their employers differently from employees who have not.
- ⁸ During a meet and confer prior to the hearing, Ms. Sabouhi apparently argued that the Arbitration Agreement was not binding because it did not contain a handwritten signature. Counsel for Ms. Sabouhi abandoned that argument at the hearing.

State of South Carolina	)	IN THE COURT OF COMMON PLEAS
	)	
County of Anderson	)	Case No.: 2022CP0402159
Skylar Blume, Virgil Dowis, Rhi Greer,	)	
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, & Aneil Tripathi,	)	
	)	
Plaintiffs,	)	Memorandum in Opposition to
v.	)	Defendants’ Motions to Dismiss
	)	
Starbucks Corporation & Melissa Morris,	)	
	)	
Defendants.	)	

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Plaintiffs hereby oppose Defendants' Motions to Dismiss and Compel Arbitration. These are Defendants' second set of motions to dismiss in this case. Previously, they sought dismissal on preemption grounds under the National Labor Relations Act. The Court denied those motions. Now, having failed to convince the Court that Plaintiffs' claims were preempted, Defendants assert for the first time that Plaintiffs should be forced to arbitrate their claims.

Defendants have waived their right to compel arbitration. They waited months to seek to arbitrate Plaintiffs' claims, and in the meantime have taken advantage of this Court's processes by filing a motion to dismiss on another ground and a motion to transfer the case to the Business Court docket. Because Defendants have acted in a manner inconsistent with the assertion of the right to compel arbitration, they have waived that right. *See Lawrimore v. Am. Health & Ins. Co.*, 276 S.C. 112, 118, 276 S.E.2d 296, 299 (S.C. 1981).

Even if Defendants did not waive the right to compel arbitration, their motions should be denied because Plaintiffs' claims are not arbitrable under the agreement. The agreement only covers claims "related" to "employment," illustrating the scope of the agreement by listing various categories of traditional employment claims, such as discrimination and harassment. But here, Plaintiffs do not pursue an employment claim, and in fact, their claims do not turn on their employment status at Starbucks. Moreover, the outrageous tort exception applies to Plaintiffs' claims. When they started working at Starbucks, there is no way that Plaintiffs could have foreseen that their manager would file a false police report against them and that their manager and the company would then make false statements accusing them of kidnapping and assault. As the South Carolina Supreme Court has held, arbitration agreements do not apply to "wholly unexpected tortious conduct" that a party to the agreement "could not possibly have foreseen" in the course of "normal business dealings." *Aiken v. World Finance Corp. of S.C.*, 373 S.C. 144,

151, 644 S.E.2d 705, 709 (S.C. 2007). The arbitration agreement therefore cannot encompass the claims at issue in this case.

For these reasons, Defendants' motions to dismiss or stay the proceedings in this case should be denied.

I. BACKGROUND AND PROCEDURAL HISTORY

A. Relevant facts pled in the complaint.

Plaintiffs are eight current or former employees of a Starbucks store in Anderson, South Carolina. On August 1, 2022, Plaintiffs and other workers peacefully approached their manager, Defendant Morris, and presented a letter. Compl. ¶ 20. During the interaction, all workers remained peaceful and non-violent; no employee touched Morris or blocked the exit. *Id.* ¶ 23.

Subsequently, Defendants made a series of false statements about this peaceful encounter, including a false police report filed by Morris, *id.* ¶¶ 27–28, and a statement published by Starbucks falsely insinuating that Plaintiffs had engaged in criminal misconduct, *id.* ¶¶ 36, 37. Defendants knew that their statements were false. *Id.* ¶ 54. Morris knew that no worker had committed assault or blocked the exit. *Id.* ¶ 23. And Starbucks had access to a video, posted publicly online, showing that the workers had engaged in no violent or unlawful conduct. *Id.* ¶¶ 3, 22.

The police investigated the incident following Morris's false report. *Id.* ¶ 39. At Morris's request, the police also sought an arrest warrant for one or more of the Plaintiffs. *Id.* ¶ 43. A magistrate judge denied the request based on insufficient evidence. *Id.*

On September 15, 2022, the Anderson Sheriff's Office confirmed that Morris's report was false, stating that "[t]he employees did not stop her from leaving and did not put their hands on her, which is what the boss reported had happened." *Id.* ¶¶ 44–45.

Despite the Sheriff's Office's statement, Defendants have never retracted their false and misleading statements accusing Plaintiffs of criminal assault and kidnapping. *Id.* ¶ 53. As a result of Defendants' conduct, Plaintiffs suffered harm to their reputations as well as emotional distress and mental suffering. *Id.* ¶¶ 46–48.

B. Defendants' prior motions to dismiss and motions to transfer to Business Court.

Plaintiffs brought this suit in October 2022, alleging that Morris and Starbucks are liable for defamation and abuse of process under South Carolina law. *Id.* ¶¶ 58–63.

Six months ago, in December 2022, Starbucks filed a motion to dismiss, claiming that Plaintiffs' claims were preempted by the National Labor Relations Act. Defendant Morris filed a similar motion shortly after Starbucks' motion. Defendants also filed a motion to transfer the case to the Business Court docket.

The Court held oral argument regarding Defendants' motions to dismiss, and denied both motions in February 2022. The Court also denied the motion to transfer to Business Court. Thereafter, Plaintiffs served discovery requests on both Defendants in March 2023.

Now, months after the complaint was filed; following briefing, oral argument, and denial of the previous motions to dismiss and motion to transfer to Business Court; and after Plaintiffs issued discovery requests to both Defendants, Defendants seek dismissal pursuant to the Federal Arbitration Act (FAA), 9 U.S.C. §§ 3–4.

II. LEGAL STANDARDS

A. Standard to compel arbitration clauses found in employment agreements.

To compel arbitration, a party must show the existence of a valid and enforceable contract between the parties to agree to arbitrate the dispute at issue. Arbitration agreements are analyzed like all other contracts to determine whether the parties had a “meeting of the minds . . .

as to all essential and material terms.” *Lampo v. Amedisys Holding, LLC*, 437 S.C. 236, 242, 877 S.E.2d 486, 489 (S.C. Ct. App. 2022). Thus, arbitration clauses may only require a party to arbitrate claims that they have expressly agreed to arbitrate. *Id.*; *Oyekan v. Educ. Corp. of Am.*, No. 4:18-cv-1785, 2019 BL 68013, 2019 WL 978865, at *3 (D.S.C. Feb. 28, 2019) (“Courts will compel arbitration under [the FAA] if: (1) the parties entered into a valid agreement to arbitrate claims; and (2) the dispute or claims in question fall within the scope of the arbitration agreement.”).

As it relates specifically to employment agreements, like the one at issue here, arbitration clauses only apply “to disputes in which a significant relationship exists between asserted claims and the contract in which the arbitration clause is contained.” *Landers v. Fed. Deposit Ins. Corp.*, 402 S.C. 100, 109, 739 S.E.2d 209, 214 (S.C. 2013); *see also Anderson v. Hansen*, 47 F.4th 711 (8th Cir. 2022); *Cooper v. Ruane Cunniff & Goldfarb Inc.*, 990 F.3d 173, 180–83 (2d Cir. 2021).

Even where an arbitration agreement exists, the law recognizes certain legal claims are not subject to arbitration. Relevant here, the South Carolina Supreme Court has recognized an “outrageous torts” exception to enforcing arbitration agreements. Pursuant to the exception, South Carolina courts “will refuse to interpret any arbitration agreement as applying to outrageous torts that are unforeseeable” at the time the agreement is signed. *Aiken*, 373 S.C. at 151, 644 S.E.2d at 709.

B. Waiving the right to compel arbitration.

Even where a valid arbitration agreement exists, a party may waive their right to enforce the agreement by delaying their request for arbitration and substantively engaging in court proceedings. *See Rhodes v. Benson Chrysler-Plymouth, Inc.*, 374 S.C. 122, 125, 647 S.E.2d 249,

250 (S.C. Ct. App. 2007). South Carolina courts have held that parties waived a right to compel arbitration when they took advantage of court processes before seeking arbitration. *See, e.g., Deloitte & Touche, LLP v. Unisys Corp.*, 358 S.C. 179, 184, 594 S.E.2d 523, 525–26 (S.C. Ct. App. 2004); *Evans v. Accent Manufactured Homes, Inc.*, 352 S.C. 544, 550, 575 S.E.2d 74, 75–76 (S.C. Ct. App. 2003).

In evaluating whether a party has waived the right to compel arbitration, “[t]here is no set rule as to what constitutes a waiver of the right to arbitrate; the question depends on the facts of each case.” *Liberty Builders, Inc. v. Horton*, 336 S.C. 658, 665, 521 S.E.2d 749, 753 (S.C. Ct. App. 1999) (quotation marks omitted). South Carolina courts have often looked to particular factors, including the length of time between commencement of the action and the motion to compel and litigation actions taken by the party requesting arbitration. *See Rhodes*, 374 S.C. at 125, 647 S.E.2d at 250.

To the extent South Carolina courts have applied arbitration-specific tests to determine whether a party has waived the right to arbitrate, those precedents have been abrogated by the United States Supreme Court’s recent decision in *Morgan v. Sundance, Inc.*, 142 S. Ct. 1708 (2022). In that decision, the Court rejected the application of an arbitration-specific waiver test requiring the party asserting waiver to show prejudice. 142 S. Ct. at 1712–13. In doing so, the Court reaffirmed that the FAA requires that courts treat “arbitration contracts like all others.” 142 S. Ct. 1713. *Morgan* thus held that “a court may not devise novel rules to favor arbitration over litigation.” *Id.*¹ Pursuant to *Morgan*, this court must apply to arbitration agreements the same test that applies to waiver of other contractual rights or defenses.

¹ Because the FAA preempts the application of state law that treats arbitration agreements differently than “nonarbitration agreements,” the statute prohibits all arbitration-specific tests,

In evaluating whether a party has waived a contractual right or defense, the South Carolina Supreme Court has long held if a party “shall make any speech or perform any act from which a reasonable inference may be drawn that the company does not stand upon its right, then waiver may be inferred.” *Lawrimore*, 276 S.C. at 118, 276 S.E. 2d at 299 (S.C. 1981) (quoting *Williams v. Philadelphia Life Ins. Co.*, 112 S.C. 436, 447, 100 S.E. 157, 160 (S.C. 1919)). Waiver by implication results when a party has “knowledge of all of the facts” related to a waivable right or defense, but takes “any action or inaction manifestly inconsistent with an intention to insist on” the defense. *City of North Myrtle Beach v. Lewis-Davis*, 360 S.C. 225, 235, 599 S.E.2d 462, 467 (S.C. Ct. App. 2004) (quotation marks omitted).

III. ARGUMENT

A. Defendants have waived their right to compel arbitration.

Defendants’ motions to dismiss come several months after the complaint was filed. Defendants have already sought to take advantage of this Court’s processes by seeking dismissal in their prior motions, which the Court denied, and seeking a transfer to Business Court, which was denied. Moreover, Defendants have already received discovery requests from Plaintiffs. Because Defendants have unreasonably delayed seeking arbitration, and have taken action that is squarely inconsistent with their current assertion of arbitration, they waived their right to compel arbitration.

Defendants could have sought arbitration shortly after the complaint issued. At a minimum, they could have sought such relief at the time they filed their previous motions to dismiss. Instead, Defendants chose to take two bites at the apple—first seeking dismissal on

whether they purport to be derived from the FAA or from state common law. *Perry v. Thomas*, 482 U.S. 483, 492 n.9 (1987).

preemption grounds and, when that failed, attempting to compel arbitration. Well-recognized waiver principles prevent a party from delaying a request to compel arbitration as Defendants have. Given the several months' delay, and Defendants' decision to brief the preemption and Business Court motions first, the Court should conclude that Defendants have waived their right to compel arbitration.

As explained above, courts must analyze waiver of the right to arbitrate on the same terms as waiver of other rights or defenses. *See Morgan*, 142 S. Ct. at 1713–14. As *Morgan* recognized, waiver is the “intentional relinquishment or abandonment of a known right,” and to determine whether waiver has occurred “for a contractual right, as for any other,” courts focus “on the actions of the person who held the right.” *Id.* at 1713. South Carolina’s long-established waiver rules for rights and defenses outside of the arbitration context are consistent with *Morgan*: waiver results from actions inconsistent with the assertion of a known right or defense. *Lawrimore*, 276 S.C. at 118, 276 S.E. 2d at 299 (waiver may be inferred from any speech or act “from which a reasonable inference may be drawn that [a party] does not stand upon its right”); *Lewis-Davis*, 360 S.C. at 235, 599 S.E.2d at 476 (waiver results from “any action or inaction manifestly inconsistent with an intention to insist on” the defense.).

Plaintiffs acknowledge that prior cases analyzing the waiver of the right to compel arbitration in South Carolina have typically involved the party seeking to compel arbitration also having previously sought discovery and have required a showing of prejudice to the non-moving party. But to the extent Starbucks relies on those cases to suggest Plaintiffs must show prejudice or that the parties must have engaged in discovery to find waiver of arbitration, *Morgan* forecloses that argument. *See supra* at 5.

Here, Defendants' significant delay in seeking to compel arbitration, and their first motions to dismiss and the motion to transfer to Business Court are inconsistent with the intention to assert the right to arbitrate. Defendants do not (nor could they) claim that their delay in seeking arbitration is the result of the need to discover facts relevant to asserting that right. Nor do Defendants cite any reason why the issue it raised in their first motions to dismiss, whether the National Labor Relations Act (NLRA) preempts Plaintiffs' state common law claims, could not be decided by an arbitrator. Furthermore, there would be no reason to seek to litigate this case in the Business Court, only to then force Plaintiffs into arbitration.

As a number of courts have recognized, submitting an issue to a court that could have been decided by an arbitrator is "not consistent with a desire to arbitrate" and is therefore sufficient to waive arbitration. *St. Mary's Med. Ctr. Of Evansville, Inc. v. Disco Aluminum Products Co.*, 969 F.2d 585, 589–90 (7th Cir. 1992). Courts are especially suspect of attempts to compel arbitration after losing a motion that could have resolved the case, noting that this attempt to "play heads I win, tails you lose" is "the worst possible reason for failing to move for arbitration" before filing a dispositive motion to dismiss. *Hooper v. Advance Am.*, 589 F.3d 917, 922 (8th Cir. 2009) (quotation marks omitted); *see, e.g., SanDisk Corp. v. SK Hynix, Inc.*, 84 F. Supp. 3d 1021, 1033 (N.D. Cal. 2015) (noting, where party seeking to compel arbitration waited until after a preliminary injunction was granted against it, that "in general courts take a 'dim view of litigants who seek arbitration after an unfavorable result in litigation'" (quoting *Riverside Publ'g Co. v. Mercer Publ'g LLC*, 829 F. Supp. 2d 1017, 1022 (W.D. Wash. 2011)); *see id.* at 1033–34 (collecting cases).

Defendants' significant delay in seeking to compel arbitration, and their decision to file dispositive motions raising issues that an arbitrator could have decided, are inconsistent with

their attempt to compel arbitration, an alternative dispute mechanism designed to enhance efficiency. “Arbitration laws are passed in order to expedite the settlement of disputes and should not be used as a means of furthering and extending delays” *Evans*, 352 S.C. at 550, 575 S.E.2d at 76 (quoting 4 Am. Jur. 2d Alternative Dispute Resolution § 131 (1995)). Defendants should not be permitted to take advantage of this Court’s processes for months and then attempt to force the parties into arbitration when they are not satisfied with this Court’s rulings, thereby further delaying resolution of the claims in this case. Accordingly, this Court should find that Defendants have waived its right to compel arbitration.

B. Even if waiver does not apply, the claims in this lawsuit are not arbitrable under the agreement.

The claims in this case are not arbitrable for two primary reasons.

First, Plaintiffs did not agree to arbitrate the claims at issue in this case. The arbitration agreement between Plaintiffs and Starbucks, to which Morris is not a signatory, applies only to “Covered Claims,” which are defined as claims “relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.” *See Starbucks Ex. C to Mot.*

Each of the enumerated Covered Claims in the agreement involve terms and conditions of employment (e.g., compensation, benefits, termination, etc.). Neither defamation nor abuse of process are mentioned, nor are any class of claims that would suggest the parties agreed arbitrate matters falling outside the ordinary realm of employment claims, such as claims that have no relationship to terms and conditions of employment. In interpreting a contract, “[w]hen words of particular and specific meaning are followed by general words, the general words are construed to embrace only persons or things of the same general kind or class as those enumerated.” *Ellis v.*

Taylor, 316 S.C. 245, 248, 449 S.E.2d 487, 488, (S.C. 1994). Therefore, the Court should conclude that Plaintiffs did not agree to arbitrate non-employment claims. *See Lampo*, 437 S.C. at 242, 877 S.E.2d at 489 (“Because arbitration under the FAA rests entirely upon consent, it is always up to the court to determine if the parties have an agreement to arbitrate.”); *Oyekan v. Educ. Corp. of Am.*, No. 4:18-cv-01785-RBH, 2019 BL 68013, at *4 (D.S.C. Feb. 28, 2019) (“The courts decide in the first instance whether a dispute is to be resolved through arbitration” including whether “the specific dispute falls within the scope of the agreement to arbitrate”).

As the South Carolina Court of Appeals has held, just because a claim involves a dispute between an employee and employer, that does not mean that it is covered by even the most broadly worded arbitration agreements. In *Davis v. ISCO Industries, Inc.*, the court held that an agreement to arbitrate “any and all claims, disputes or controversies arising out of or relating to [an employee’s] candidacy for employment, employment and/or cessation of employment” did not cover the employee’s negligence claim against the employer for damage resulting from a data theft hack of the employer. 434 S.C. 488, 492, 498–99, 864 S.E.2d 391, 393, 396–97 (S.C. Ct. App. 2021). Even though the employer only had the plaintiff’s data “due to his previous employment” with the company, that was not enough for the broad arbitration agreement to apply, because “the grounds for his negligence claim—the human resources employee disclosing his information to hackers—do not truly relate to his employment.” *Davis*, 434 S.C. at 498–99, 864 S.E. 2d at 396–97.

Similarly here, Plaintiffs’ claims of defamation and abuse of process do not relate to their employment because their employment relationship is not material to any of the elements of their claim. To succeed on their malicious defamation claim, Plaintiffs need only show that Defendants published defamatory statements “with knowledge of their falsity or with reckless

disregard of whether they were true or false,” and as a result Plaintiffs suffered harm, such as “general injury to reputation, [and] consequent mental suffering.” *Linn v. Plant Guard Workers*, 383 U.S. 53, 65 (1966). In order to succeed on the abuse of process claim, Plaintiffs need only show “(1) an ulterior purpose, and (2) a willful act in the use of the process that is not proper in the regular conduct of the proceedings.” *Pallares v. Seinar*, 407 S.C. 359, 370, 756 S.E.2d 128, 133 (S.C. 2014). Plaintiffs are not required to make any showing about their employment status, their working conditions, pay, or benefits, or anything else “relating” to their employment in order to succeed on these two state common law claims. By way of illustration, had Plaintiffs been non-employee customers at Starbucks and been falsely accused of kidnapping by Defendants, their claims and the proof required to support those claims would be exactly the same. Thus, nothing about the fact that they were employees relates to their claims. Nor did the unlawful action taken by Defendants even occur in the workplace—Defendants’ false statements were made to police and published during a time when Starbucks had closed the store. *See* Compl. ¶¶ 27, 36.²

Second, the claims fall within South Carolina’s outrageous tort exception to arbitration. The South Carolina Supreme Court has held that arbitration agreements do not apply to “outrageous torts” that a party to the agreement “could not possibly have foreseen” in the course

² Notably, each of the cases Starbucks cites where its arbitration agreement was enforced involve traditional employment or labor law claims; none involve state common law torts. *See Walters v. Starbucks Corp.*, No. 22cv1907, 2022 BL 299184, at *2 (S.D.N.Y. Aug. 25, 2022) (addressing claims for “discrimination, a hostile work environment, retaliation, and constructive termination”); *Wilson v. Starbucks Corp.*, 385 F. Supp. 3d 557, 558 (E.D. Ky. 2019) (addressing claims under the Family Medical Leave Act); *Armstead v. Starbucks Corp.*, No. 16-cv-1163, 2017 BL 413907 at *1 (S.D.N.Y. Nov. 17, 2017) (addressing claim that Starbucks “had a policy of ‘time shaving’ employee hours, in violation of the Fair Labor Standards Act”); *Horne v. Starbucks Corp.*, No. 2:16-cv-02727, 2017 BL 226010 (E.D. Cal. June 29, 2017) (addressing sexual orientation discrimination claims).

of “normal business dealings.” *Aiken*, 373 S.C. at 151, 644 S.E.2d at 709. In *Aiken*, the Court applied that exception to find that an agreement to arbitrate “ALL DISPUTES, CONTROVERSIES OR CLAIMS OF ANY KIND AND NATURE BETWEEN LENDER AND BORROWER ARISING OUT OF OR IN CONNECTION WITH THE LOAN AGREEMENT, OR ARISING OUT OF ANY PRIOR OR FUTURE DEALINGS BETWEEN LENDER AND BORROWER” did not apply to the borrower’s state common law claims against the borrower arising out of misuse of personal information, because the borrower “could not possibly have been agreeing to provide an alternative forum for settling claims arising from this wholly unexpected tortious conduct.” *Aiken*, 373 S.C. at 147, 151, 644 S.E.2d at 707, 709.

Similarly here, when they started working at Starbucks, Plaintiffs could not possibly have foreseen that their manager and the company would call the police, seek an arrest warrant, and make public statements falsely accusing them of assault and kidnapping. *See* Compl. ¶¶ 28, 29, 36, 43. Indeed, there is an even stronger basis for the outrageous tort exception in this case, because the arbitration agreement is decidedly narrower than the agreement at issue in *Aiken*. The agreement in this case is limited to claims “relating to [Plaintiffs’] employment,” *see* Starbucks Ex. C to Mot., in contrast to the nominally all-encompassing agreement in *Aiken*, *see* 373 S.C. at 147, 644 S.E.2d at 707.

CONCLUSION

For the foregoing reasons, Defendants’ motions to dismiss or stay the proceedings should be denied.

Respectfully Submitted,

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Date: June 7, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ANDERSON	)	
	)	C/A No. 2022-CP-04-02159
Skylar Blume, Virgil Dowis, Rhi Greer,	)	
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, and Aneil Tripathi,	)	
	)	DEFENDANT MELISSA MORRIS'
Plaintiffs,	)	MOTION TO DISMISS OR, IN THE
	)	ALTERNATIVE, COMPEL
v.	)	ARBITRATION
	)	
Starbucks Corporation and Melissa Morris,	)	
	)	
Defendants.	)	
	)	

Defendant Melissa Morris (“Morris” or “Defendant”), by and through her undersigned counsel, timely moves to dismiss with prejudice Plaintiff’s causes of action against Defendant, pursuant to Rules 12(b)(1) and/or 12(b)(6) of the South Carolina Rules of Civil Procedure. Alternatively, Ms. Morris timely moves to compel arbitration pursuant to the Federal Arbitration Act (“FAA”). *See* 9 U.S.C. §§ 3-4.

Ms. Morris bases this Motion on the Plaintiff’s Complaint, the arbitration provisions in the Starbucks Mutual Arbitration Agreement (“Arbitration Agreement”) which Plaintiffs executed as part of their employment with Starbucks Corporation, and the Memorandum of Law and exhibits thereto that Defendant Starbucks Corporation filed in this Court on April 7, 2023. The Arbitration Agreement specifically encompassed Plaintiffs’ claims against Ms. Morris, as it broadly included all claims between Plaintiffs, Starbucks Corporation, and/or “any current or former employee of Starbucks” (which necessarily includes Ms. Morris who Starbucks formerly employed as Plaintiffs’ manager).

Pursuant to Rule 11(a) of the South Carolina Rules of Civil Procedure, the undersigned had no duty to consult with opposing counsel prior to filing and serving this Motion.

WHEREFORE, Ms. Morris respectfully requests that the Court dismiss this case with prejudice or, alternatively, compel arbitration pursuant to the Arbitration Agreement.

TURNER PADGET GRAHAM & LANEY P.A.

s/RW Belcher

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ATTORNEYS FOR DEFENDANT

MELISSA MORRIS

June 2, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	FOR THE TENNNTH JUDICIAL CIRCUIT
Skylar Blume, Virgil Dowis, Rhi Greer,	)	Civil Action No. 2022-CP-04-02159
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, and Aneil Tripathi,	)	
	)	
Plaintiffs,	)	DEFENDANT STARBUCKS
	)	CORPORATION’S MEMORANDUM
vs.	)	IN SUPPORT OF ITS MOTION TO
	)	DISMISS AND COMPEL
Starbucks Corporation and Melissa Morris,	)	ARBITRATION
	)	
Defendants.	)	

Defendant Starbucks Corporation (“Starbucks”) hereby submits this Memorandum in Support of its Motion to Dismiss or, in the alternative, Stay Proceedings and Compel Arbitration pursuant to the Federal Arbitration Act (“FAA”), 9 U.S.C. §§ 3–4. In support of its Motion, Starbucks state as follows:

I. INTRODUCTION

Plaintiffs Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada, Braden Terrill, and Aneil Tripathi (“Plaintiffs”), are eight current/former Starbucks employees. Plaintiffs’ Complaint alleges allege two causes of action against Defendants Starbucks and Melissa Morris (“Morris”) (1) defamation and (2) abuse of process. (*See* Complaint (“Compl.”) at ¶¶ 49-63.)

Specifically, Plaintiffs allege that Starbucks and Morris published false statements about their actions on August 1, 2022, when Plaintiffs confronted Morris, who served as Plaintiffs’ manager, and demanded changes to the terms and conditions of their employment, including, a pay increase, among others. (Comp. at ¶¶ 49-57.) This confrontation occurred while Plaintiffs

were employed by Starbucks. (*See id.*) Plaintiffs further allege that Starbucks and Morris abused the legal process when Morris reported Plaintiffs' conduct to the police. (*Id.* at ¶¶ 58-63.)

Plaintiffs plainly cannot pursue their claims in this Court because Plaintiffs each entered into a binding agreement to arbitrate any claims relating to their employment with Starbucks. Plaintiffs executed the Starbucks Mutual Arbitration Agreement ("Arbitration Agreement") as a condition of their employment with Starbucks. The Agreement is patently valid and enforceable pursuant to the core tenets of South Carolina contract law—namely, the Arbitration Agreement was entered into freely, and was supported by adequate consideration. Moreover, Plaintiffs' claims here are within the broad scope of the Agreement, and arbitration must be compelled pursuant to both South Carolina precedent and the FAA. Accordingly, Starbucks respectfully requests that this Court dismiss Plaintiffs' claims against them or, in the alternative, stay these proceedings and compel arbitration.

II. STATEMENT OF FACTS

Starbucks is an American chain of coffeehouses, with over 9,000 locations nationwide. (*See* Declaration of Lara Braislin ("Braislin Decl."), attached hereto as Exhibit A, at ¶ 3.) Starbucks regularly conducts transactions across state lines and ships and sells its coffee-related merchandise across state lines. (*Id.* at ¶¶ 3-4.) Additionally, Starbucks advertises employment opportunities nationally (and internationally) via the internet and recruits candidates from all 50 states. (*Id.* at ¶ 4.)

Starbucks utilizes an online Employee Onboarding Process on Starbucks' Taleo online application website. (Braislin Decl. at ¶ 5.) One of the initial steps in the onboarding process is to complete the "E-Signature Consent" page ("E-Signature Consent"). (*Id.* at ¶ 7.) Plaintiffs each executed the E-Signature Consent as part of the onboarding process. (*Id.* at ¶ 12; Copies of

Plaintiffs' executed E-Signature Consents attached hereto as **Exhibit B.**) The E-Signature Consent provides:

By entering your signature in the text field below, you are agreeing to electronically access, receive, review, sign and authenticate certain documents, forms, and/or letters ('Materials') covered by the federal Electronic Signatures in Global and National Commerce Act ('E-SIGN')... including but not limited to an offer letter, I-9 form, wage statement; and any other employment-related documents.

This E-Signature Consent applies to all Materials, both current and future, related to your employment with Starbucks Corporation.

By entering your signature in the text field below, you are agreeing that your electronic signature is the equivalent of your handwritten (or wet) signature, with all the same legal and binding effect. In certain cases throughout your employment, you may be asked to click buttons labeled "I Agree," "I Acknowledge," or using similar words, or otherwise electronically to acknowledge, accept, or review Materials. This E-Signature Consent applies to those instances as well.

(Ex. B.)

Additionally, the E-Signature Consent provides that each employee understands that his/her signature evidences his/her agreement "to electronically access, receive, review, sign and authenticate Materials related in any way to [their] employee with Starbucks Corporation, in place of hard copy/paper documents and handwritten signatures." (Ex. B at 2.) The E-Signature Consent further provides that employees, by signing the consent, confirm that they understand how to cancel the consent (should they decided to do so and that they have read, understand, and agree to the terms of the E-Signature Consent, among other representations. (*See id.*) Each Plaintiff in this case executed an E-Signature Consent. (*See e.g.*, Ex. B.)

Starbucks also provides employees with the Starbucks Mutual Arbitration Agreement during the onboarding process. (Braislin Decl. at ¶ 8.) Like the E-Signature Consent, employees review the Arbitration Agreement electronically and execute the

agreement with an electronic signature. (*Id.*) The Arbitration Agreement states, in relevant part:

Starbucks and I agree to use binding individual arbitration to resolve any “Covered Claims” that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively “Starbucks”). ‘Covered Claims’ are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

(*Id.* at ¶¶ 8-10, 12-20, Exs. A-H); (Copies of Plaintiffs’ Executed Arbitration Agreements, attached hereto as **Exhibit C.**) The Arbitration Agreement further provides that “[e]xcept as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court.” (Ex. C) (emphasis in original).

Additionally, the Arbitration Agreement provides: (1) the arbitration is governed by the AAA rules; (2) Starbucks will pay all costs unique to arbitration; (3) the arbitrator will be mutually selected by the parties; (4) adequate discovery and arbitrator discretion to permit additional discovery; and (5) a requirement that the arbitrator issue a written ruling within 30 days after the conclusion of the hearing. (*See* Ex. C.) Moreover, the Arbitration Agreement establishes that the arbitrator, not a court or agency, possesses the sole authority to resolve any disputes concerning “the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.” (*Id.*)

Once an employee signs the Arbitration Agreement, his/her electronic signature is placed on the Arbitration Agreement along with the date that the agreement was signed and the IP address from the device used to review/sign the Arbitration Agreement. (Braislin Decl. at ¶ 8.) Each of the Plaintiffs in this case agreed to be bound by the Arbitration Agreement while employed by Starbucks. (*Id.* at ¶¶ 11-20, Exs. A-H.)

On August 1, 2022, Plaintiffs, along with others unionized Starbucks employees confronted Morris and demanded changes to the terms and conditions of their employment with Starbucks, including, among others, wage increases. (Compl. at ¶ 18.) Plaintiffs videoed this confrontation and provided an edited version of the confrontation to Starbucks Workers United, the union who later disseminated the video via social media. Following these events, Morris contacted the Anderson County Sheriff's Office and reported the events that transpired on August 1, 2022. (*Id.* at ¶ 27.) Starbucks issued a statement on August 8, 2022, that provides that Morris felt threatened and unsafe during the confrontation on August 1st and had contacted law enforcement about those events. (*Id.* at ¶ 36.) After investigating the events that occurred on August 1, 2022, the Sheriff's Office declined to pursue charges against those individuals named in the police report. (*Id.* at ¶¶ 44-45.)

On October 17, 2022, Plaintiffs filed this action alleging claims for defamation and abuse of process against Starbucks and Defendant Morris.¹ In support of their claims in this action, Plaintiffs allege that Morris defamed them by submitting a police report following the events that took place at the Anderson Starbucks location on August 1, 2022. (Compl. at ¶¶ 27-30, 50-51.) Plaintiffs further allege that Starbucks published a false/defamatory statement on August 8, 2022, regarding the events that took place on August 1, 2022. (Compl. at ¶¶ 31-38, 52.) Plaintiffs also claim that Starbucks and Morris abused the legal process by filing a police report and did so for the purpose of "preventing Plaintiffs from publicly protesting Starbucks." (Compl. at ¶¶ 59-62.)

¹ Before filing the Complaint, Plaintiffs filed a charge with the National Labor Relations Board on August 8, 2022. They later filed an amended charge in December 2022.

III. LAW AND AUTHORITY

A. The Arbitration Clause Must Be Enforced Under the Federal Arbitration Act.

Plaintiffs' Complaint must be dismissed based upon the mandatory arbitration provisions in the Agreement.

The FAA provides, in relevant part, that “[a] written provision in any...contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract...shall be valid, irrevocable, and enforceable....” 9 U.S.C. § 2. When an action subject to arbitration is brought in court, the court “*shall* make an order directing the parties to proceed to arbitration.” 9 U.S.C. §§ 3–4 (emphasis added). Although the FAA provides that a court “shall ... stay the trial of the action” when it compels arbitration, *see* 9 U.S.C. § 3, the Fourth Circuit has recognized that “dismissal is a proper remedy when all of the issues presented in a lawsuit are arbitrable.” *Choice Hotels Int’l, Inc. v. BSR Tropicana Resort, Inc.*, 252 F.3d 707, 709–10 (4th Cir. 2001).

Importantly, the FAA “leaves no place for the exercise of discretion by the district court, but instead mandates that [] courts shall direct the parties to proceed to arbitration on issues as to which an arbitration agreement has been signed.” *Dean Witter Reynolds, Inc. v. Byrd*, 470 U.S. 213, 218, 105 S.Ct. 1238, 1241 (1985); *Adkins v. Labor Ready, Inc.*, 303 F.3d 496, 500 (4th Cir. 2002) (holding that courts have “no choice but to grant a motion to compel arbitration where a valid arbitration agreement exists and the issues in a case fall within its purview.”) Simply put, the FAA “requires courts to enforce privately negotiated agreements to arbitrate, like other contracts, in accordance with their terms.” *Zabinski v. Bright Acres Assocs.*, 346 S.C. 580, 592, 553 S.E.2d 110, 116 (S.C. 2001) (quoting *Volt Info. Scis., Inc. v. Bd. of Trs. of Leland Stanford Jr. Univ.*, 489 U.S. 468, 478, 109 S.Ct. 1248, 1255 (1989)).

In determining whether the FAA applies, the “proper inquiry is whether the economic activity at issue, in the aggregate, is a general practice subject to federal control.” *Citizens Bank v. Alafabco, Inc.*, 539 U.S. 52, 56, 123 S.Ct. 2037, 2040 (2003)); *see also Marzulli v. Tenet S.C., Inc.*, No. 2015-002363, 2018 WL 1531507, at *2 (S.C. Ct. App. Mar. 28, 2018). Courts interpret the phrase “involving commerce” the same as “affecting commerce,” which has been very broadly interpreted to mean Congress intended to utilize its powers to regulate interstate commerce to its full extent. *See Allied-Bruce Terminix Cos. v. Dobson*, 513 U.S. 265, 115 S.Ct. 834 (1995).²

Starbucks unquestionably is engaged in interstate commerce. Starbucks owns and operates thousands of retail coffee shops throughout the United States, where it sells coffee and related products to its customers. (Braislin Decl. at ¶ 3.) These shops clearly involve the channels of interstate commerce. *Cape Romain Contractors, Inc.*, 405 S.C. at 122, 747 S.E.2d at 464. Moreover, Starbucks purchases goods from multiple states and transports goods across state lines for ultimate sale to its customers through its retail locations. (Braislin Decl. at ¶ 3.) These activities undoubtedly utilize the instrumentalities of interstate commerce and/or people or things of interstate commerce as well as the channels of interstate commerce. *Cape Romain Contractors, Inc.*, 405 S.C. at 122, 747 S.E.2d at 464. Indeed, the Complaint provides that Starbucks “is engaged in the retail operation of restaurants throughout the United States” and further confirms that Starbucks operates nationwide. (Compl. at ¶¶ 3, 16.) Thus, it is

² South Carolina Courts have recognized that this may include three areas (1) use of channels of interstate commerce, (2) use of the instrumentalities, persons or things of interstate commerce; or (3) activities that are substantially related to interstate commerce. *Cape Romain Contractors, Inc., v. Wando E., LLC*, 405 S.C. 115, 122, 747 S.E.2d 461, 464 (S.C. 2013) (quoting *United States v. Gould*, 568 F.3d 459, 470 (4th Cir. 2009) (quoting *United States v. Morrison*, 529 U.S. 598, 609, 120 S.Ct. 1740, 146 L.Ed.2d 658 (2000))).

unquestionable that Starbucks is engaged in commerce for the purposes of the FAA and the FAA therefore applies to the Arbitration Agreement.

As such, this Court has no choice but to dismiss this action in favor of arbitration given that a valid agreement arbitrate exists between the parties, and this Court must enforce the Arbitration Agreement.

B. Plaintiff's Claims Must Be Dismissed Because They Are Covered by the Parties' Valid and Enforceable Arbitration Clause.

There exists a strong South Carolina and federal policy favoring arbitration, arbitration agreements are presumed valid. *See Cape Romain Contractors, Inc.*, 405 S.C. at 125, 747 S.E.2d at 466. Accordingly, “the party resisting arbitration bears the burden of proving that the claims at issue are unsuitable for arbitration.” *Green Tree Fin. Corp. Ala. v. Randolph*, 531 U.S. 79, 91, 123 S.Ct. 513, 522 (2000). The question of validity of an arbitration agreement is based upon state contract law. *S.C. Pub. Serv. Auth. v. Great W. Coal (Kentucky), Inc.*, 312 S.C. 559, 562, 437 S.E.2d 22, 24 (S.C. 1993).

To determine whether a particular matter is bound to arbitration, the court is tasked with determining two “gateway” issues: (1) whether there is a valid agreement to arbitrate; and (2) whether the agreement covers the dispute. *Howsam v. Dean Witter Reynolds*, 537 U.S. 79, 84, 123 S.Ct. 588, 592 (2002).

1. The Arbitration Agreement is Valid and Enforceable.

There is no question that the Arbitration Agreement is valid and enforceable. The Arbitration Agreement clearly provides that **both** parties agreed to arbitrate “Covered Claims.” (Ex. C; Braislin Decl. at ¶ 9.) Furthermore, the agreement provides that **both** parties agreed to waive their respective rights to a jury trial. (*Id.*) These terms are certainly reasonable as they

contain mutual promises to arbitrate disputes covered by the Arbitration Agreement, as well as a mutual release of other rights.

Under South Carolina law, a mutual promise to arbitrate constitutes sufficient consideration to underpin an arbitration agreement. *O'Neil v. Hilton Head Hosp.*, 115 F.3d 272, 275 (4th Cir. 1997) (citing *Rickborn v. Liberty Life Ins. Co.*, 321 S.C. 291, 298, 468 S.E.2d 292, 300 (S.C. 1996)). “Because no consideration is required above and beyond the agreement to be bound by the arbitration process”, Starbucks’ promise to arbitrate its own claims “is *a fortiori* adequate consideration for this agreement.” *Adkins v. Labor Ready, Inc.*, 303 F.3d 496, 501 (4th Cir. 2002) (internal citations omitted); *see also Patterson v. Asbury SC Lex, LLC*, No. 6:16-1666-MGL, 2016 WL 7474377, at *3 (D.S.C. Dec. 29, 2016) (finding adequate consideration because both the plaintiff and the defendant agreed to be bound by the arbitration process for any claims).

Moreover, the Arbitration Agreement is clearly fair. The agreement provides that Starbucks, not Plaintiffs, will pay all of the costs of arbitration. (Ex. C.) The agreement further states that the parties must mutually agree upon on an arbitrator, meaning Plaintiffs have the opportunity to select the party who would ultimately serve as the arbiter of their claims. (*Id.*) Finally, the arbitration process is governed by the widely recognized rules of the American Arbitration Association (AAA) as well as the Federal Rules of Civil Procedures and offers a fair, commonly used procedure to conduct any arbitration subject to this agreement. (*Id.*)

To prove an arbitration provision is invalid, a party must show that (1) he/she lacked a meaningful choice as to whether to arbitrate because the arbitration provisions are one-sided, and (2) the terms were so oppressive no reasonable person would make them and no fair and honest person would accept them. *Simpson v. MSA of Myrtle Beach, Inc.*, 373 S.C. 14, 24–25, 644 S.E.2d 663, 668 (S.C. 2007). Plaintiffs cannot establish either of these elements. As outlined above, the

Arbitration Agreement is clearly mutual and not one-sided. Further, the terms of the Agreement are not oppressive; rather, the Arbitration Agreement provides a fair opportunity for Plaintiffs to litigate their disputes in a neutral forum, with widely respected rules of procedure, in a manner paid for by Starbucks. Thus, there is no evidence to support any claim that the Arbitration Agreement is invalid.

Moreover, other courts presented with the Arbitration Agreement have commonly held the agreement is enforceable under the FAA and state contract law principles. *Walters v. Starbucks Corp.*, No. 22CV1907 (DLC), 2022 WL 3684901, at *3 (S.D.N.Y. Aug. 25, 2022) (holding that Starbucks' arbitration agreement is valid and enforceable and "the FAA requires the enforcement of the Arbitration Agreement"); *Wilson v. Starbucks Corp.*, 385 F. Supp. 3d 557, 565 (E.D. Ky. 2019); (granting motion to compel arbitration and dismissing complaint because Starbucks' arbitration agreement is valid and enforceable under state contract law); *Armstead v. Starbucks Corp.*, No. 17-CV-1163 (PKC), 2017 WL 5593519, at *3 (S.D.N.Y. Nov. 17, 2017) (holding that Starbucks' arbitration agreement is valid and enforceable under the FAA and expressly finding that an employee's electronic signature on the agreement was sufficient to bind the employee to the terms of the agreement); *Horne v. Starbucks Corp.*, No. 216CV02727MCECKD, 2017 WL 2813170, at *3 (E.D. Cal. June 29, 2017) (noting that Starbucks' arbitration agreement is valid and enforceable). At least one court, in response to a challenge to the procedural rules established by the Arbitration Agreement, held that those rules and the arbitration procedures in the Arbitration Agreement are manifestly fair and reasonable. *Horne*, 2017 WL 2813170, at *3 (court denying employee's challenge to the fairness of the discovery rules in Starbucks' arbitration agreement and holding that the procedural process in that agreement allows employees to fairly litigate their claims).

Further, to the extent that Plaintiffs contend that the Agreement is not enforceable because it fails to comply with the requirements of S.C. Code § 15-48-10(a), that argument fails as a matter of law because the FAA preempts state laws that invalidate otherwise valid agreements to arbitrate. *Munoz v. Green Tree Fin. Corp.*, 343 S.C. 531, 538 n.2, 542 S.E.2d 360, 365 (S.C. 2001) (“The FAA preempts state laws that invalidate the parties’ agreement to arbitrate”); *Blanton v. Stathos*, 351 S.C. 534, 539, 570 S.E.2d 565, 568 (S.C. Ct. App. 2002) (holding that an arbitration clause was enforceable under the FAA even though it did not contain the terms or text as required by S.C. Code § 15-48-10(a)).

Therefore, the Arbitration Agreement is undoubtedly enforceable, and this Court must enforce the Arbitration Agreement as written and dismiss the Complaint and compel this matter to binding arbitration.

2. Plaintiff’s Claims Are Covered by the Arbitration Agreement.

Moreover, the claims asserted here involve activities and events relating to Plaintiffs’ employment with Starbucks. As such, those claims fall within the scope of the Arbitration Agreement and are therefore subject to the terms of that agreement.

“To decide whether an arbitration agreement encompasses a dispute, a court must determine whether the factual allegations underlying the claim are within the scope of the broad arbitration clause, regardless of the label assigned to the claim.” *Zabinski*, 346 S.C. at 597, 553 S.E.2d at 118. “A broadly-worded arbitration clause applies to disputes that do not arise under the governing contract when a ‘significant relationship’ exists between the asserted claims and the contract in which the arbitration clause is contained.” *Id.* at 598, 553 S.E.2d at 119. “[U]nless the Court can say with positive assurance that the arbitration clause is not susceptible to an interpretation that covers the dispute, arbitration should be ordered.” *Carolina Care Plan, Inc.*

v. United Healthcare Services, Inc., 361 S.C. 544, 550, 606 S.E.2d 752, 755 (2004).

Here, the Arbitration Agreement provides that it applies to “Covered Claims.” (Ex. C.) The Agreement defines “Covered Claims” as claims “brought under any statute local ordinance, or common law relating to [an employee’s] employment [with Starbucks].” (*Id.*; *see also* Braislin Decl. at ¶ 10.) Plaintiffs’ claims in the Complaint clearly relate to their employment with Starbucks and are therefore subject to the Arbitration Agreement.

Specifically, Plaintiffs describe their actions on August 1, 2022, as efforts to “alter the terms and conditions of their employment.” (Compl. at ¶ 20.) The statements which serve as the basis for Plaintiffs’ defamation claim relate to Plaintiffs’ actions on August 1, 2022, which took place in their place of employment and within the scope of their employment with Starbucks. Indeed, the Starbucks statement relied upon in the Complaint to support the defamation claim clearly references company policies concerning employees, its investigation into workplace incidents, and ensuring that all employees “work in a warm, welcoming, inclusive environment.” (*Id.* at ¶ 36.) Thus, Plaintiffs’ defamation claim unequivocally relates to their employment with Starbucks.

The same is true for the statements attributed to Morris. Plaintiffs allege that Morris’ statements to the police concerning Plaintiffs’ actions on August 1, 2022, were defamatory. Her statements relate to Plaintiffs’ employment with Starbucks as they concern actions that Plaintiffs took *as employees* of Starbucks. Indeed, Plaintiffs themselves deemed these efforts to alter the “terms and conditions of their employment” with Starbucks which is a phrase used to define protected activity under the National Labor Relations Act (“NLRA”).³ (*Id.* at ¶ 20.) By their own

³ The purpose of the NLRA is “to govern labor-management relations affecting interstate commerce.” *Richardson v. Kruchko & Fries*, 966 F.2d 153, 155 (4th Cir. 1992) (quoting *Local 926, Int’l Union of Operating Eng’rs v. Jones*, 460 U.S. 669, 675–76, 103 S.Ct. 1453, 1458, 75

allegations, Plaintiffs clearly allege that their conduct, which is the cornerstone of Morris' statements to the police, relates to their employment with Starbucks and certain activities (protected by the NLRA) which also relate to their employment with Starbucks.⁴

Likewise, Plaintiffs' abuse of process claim is based upon similar allegations. Plaintiffs contend that reporting them to the police is the core of their abuse of process claim. As outlined above, that report centers upon Plaintiffs' activities *related to* their employment with Starbucks and efforts to alter the terms and condition of their employment with the Company. (*Id.* at ¶¶ 59-61.) Indeed, Plaintiffs go so far as saying that Starbucks and Morris made "false statements . . . not . . . for a proper purpose . . . but instead for the illegitimate collateral purpose of preventing Plaintiffs from publicly protesting Starbucks." (*Id.* at ¶ 62.) These allegations relate to Plaintiffs' rights under the NLRA, including, among others, their right to protest their employer. Critically, those rights arise from Plaintiffs' employment with Starbucks; thus, the foundation of Plaintiffs' abuse of process claim is their employment with Starbucks.

Given the allegations in the Complaint, Plaintiffs' claims in this action clearly relate to their employment with Starbucks and the rights that they possess as union-affiliated Starbucks

L.Ed.2d 368 (1983)). Section 7 of the NLRA protects the rights of employees to engage in concerted activities which are "activities of employees who have joined together in order to achieve common goals." *NLRB v. City Disposal Sys. Inc.*, 465 U.S. 822, 831, 104 S.Ct. 1505, 1511 (1984); *see also* 29 U.S.C. § 157. Further, Section 8 of the NLRA prohibits unfair labor practices which includes conduct that "may reasonably tend to coerce or intimidate employees" in their exercise of section 7 rights." *NLRB v. Air Contact Transp. Inc.*, 403 F.3d 206, 208 (4th Cir. 2005). Thus, Plaintiff's allegations in the Complaint further confirm that this dispute involves interstate commerce such that the FAA applies here.

⁴ The purpose of the NLRA is "to govern labor-management relations affecting interstate commerce." *Richardson v. Kruchko & Fries*, 966 F.2d 153, 155 (4th Cir. 1992) (quoting *Local 926, Int'l Union of Operating Eng'rs v. Jones*, 460 U.S. 669, 675-76, 103 S.Ct. 1453, 1458, 75 L.Ed.2d 368 (1983)). Thus, Plaintiff's allegations in the Complaint further confirm that this dispute involves interstate commerce such that the FAA applies here.

employees. As such, their claims undoubtedly are “Covered Claims” as defined by the Arbitration Agreement. (Braislin Decl. at ¶¶ 9-10); (Ex. C.) Therefore, Plaintiffs’ claims in this action are subject to the Arbitration Agreement. Moreover, because all of Plaintiffs’ claims fall within the Arbitration Agreement, this Court must dismiss the Complaint and compel the dispute to arbitration. *See Choice Hotels Int’l, Inc.*, 252 F.3d at 709–10 (“when all of the issues presented in a lawsuit are arbitrable,” dismissal of a complaint is warranted).

V. CONCLUSION

Plaintiffs agreed to arbitrate dispute related to their employment with Starbucks. Given the allegations in their Complaint, Plaintiffs claims here relate to their employment with Starbucks; therefore, those claims are subject to binding arbitration as set forth in the Arbitration Agreement. As such, Defendant respectfully requests that this Court to dismiss this case or, in the alternative, stay this action against them and order Plaintiff to arbitrate her claims.

Respectfully submitted this 7th day of April, 2023.

LITTLER MENDELSON, P.C

/s/ William H. Foster

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**STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON**

Plaintiffs: Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada, Braden Terrill, and Aneil Tripathi
Defendants: Starbucks Corporation and Melissa Morris
Case No.: 2022-CP-04-02159

Exhibit A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ANDERSON	)	FOR THE TENTH JUDICIAL CIRCUIT
	)	
Skylar Blume, Virgil Dowis, Rhi	)	Civil Action No.: 2022-CP-04-02159
Greer, Jonathan Hudson, Natalie	)	
Mann, Mya Ourada, Braden Terrill,	)	
and Aneil Tripathi,	)	
	)	
Plaintiffs,	)	<u>DECLARATION OF LARA BRAISLIN</u>
	)	
vs.	)	
	)	
Starbucks Corporation and Melissa	)	
Morris,	)	
	)	
Defendants.	)	
	)	

1. My name is Lara Braislin, and I am more than twenty-one (21) years of age and competent to make this declaration. The statements set forth herein are based upon my own personal knowledge, as well as my review of relevant, regularly maintained business records of Starbucks Corporation (“Starbucks” or the “Company”) and the Complaint filed in this action.

2. I am presently employed by Starbucks as a Director of Recruiting, a position I have held since May 2021. In this capacity, I am regularly and directly involved in Starbucks’ recruiting, hiring and employment practices and am familiar with Starbucks’ employment policies and practices, as well as its hiring procedures. I have personal knowledge of the facts set forth in this declaration and could and would competently testify to those facts if called as a witness in this matter.

3. Starbucks is an American chain of coffeehouses, with over 9,000 locations nationwide, where it sells coffee and related products to its customers. As part of its business operations, Starbucks regularly conducts transactions across state lines, ships, and sells its coffee-

related merchandise across state lines, and purchases and transports goods across state lines to provide to its customers for purchase at its retail locations.

4. Starbucks advertises employment opportunities nationally (and internationally) via the internet and recruits candidates from all fifty (50) states.

5. Applicants utilize Starbucks' Taleo online application website to submit applications for positions at Starbucks. Applicants select a username and password that they use to access the Taleo website and submit applications.

6. Once an applicant is extended an offer of employment and accepts that offer, the applicant must complete the online Employee Onboarding Process which is conducted via the Taleo website.

7. Employees complete an "E-Signature Consent" page as one of the first steps in the onboarding process. This page provides that employees (1) agree to the use of electronic materials in lieu of paper documents during their employment with Starbucks, (2) consent to the use of electronic signatures during their employment with Starbucks and agree that those signatures are legally binding, and (3) affirm their understand that employees have the right to revoke their consent to use electronic signatures, among other rights.

8. Additionally, Starbucks provides employees with the Starbucks Mutual Arbitration Agreement ("Arbitration Agreement") during the onboarding process. Employees review and sign the Arbitration Agreement via the Taleo website, and once signed, an employee's Arbitration Agreement contains (1) an electronic signature, (2) the date the agreement was signed, and (3) the IP address of the device used to review and execute the Arbitration Agreement.

9. The Arbitration Agreement provides that both Starbucks and its employees agree that any "Covered Claims" must be resolved via binding arbitration and that arbitration is the only

forum for such disputes. Additionally, the Arbitration Agreement provides that both Starbucks and its employees agrees to waive their rights to a jury trial.

10. Further, the Arbitration Agreement defines “Covered Claims” as claims that relate to an employee’s employment with Starbucks, among others.

11. I have reviewed the personnel files of Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada, Braden Terrill, and Aneil Tripathi, the Plaintiffs in this action.

12. Each of the Plaintiffs in this action executed an E-Signature Consent page during the onboarding process. Additionally, each of the Plaintiffs in this case executed and agreed to be bound by the Arbitration Agreement.

13. Starbucks hired Skylar Blume on April 6, 2020. As part of the onboarding process, Plaintiff Blume received the E-Signature Consent and Arbitration Agreement. True and accurate copies of Skylar Blume’s onboarding summary, E-Signature Consent and Arbitration Agreement are attached hereto as **Exhibit A**.

- a. Plaintiff Blume executed the E-Signature Consent on April 7, 2020. Ex. A at 2-3.
- b. Additionally, Plaintiff Blume executed the Arbitration Agreement on April 7, 2020. Ex. A at 4-6. Plaintiff Blume knowingly and voluntarily agreed to abide by the terms of the Arbitration Agreement.

14. Starbucks hired Maisie “Virgil” Dowis on April 19, 2019. As part of the onboarding process, Plaintiff Dowis received the E-Signature Consent and Arbitration Agreement. True and accurate copies of Virgil Dowis’ onboarding summary, E-Signature Consent and Arbitration Agreement are attached hereto as **Exhibit B**.

- a. On April 19, 2019, Plaintiff Dowis executed the E-Signature Consent. Ex. B at 2-3.
 - b. On April 20, 2019, Plaintiff Dowis executed the Arbitration Agreement. Ex. B at 4-6. Plaintiff Dowis knowingly and voluntarily agreed to abide by the terms of the Arbitration Agreement.
15. Starbucks hired Rhiannon “Rhi” Greer on October 4, 2021. As part of the onboarding process, Plaintiff Greer received the E-Signature Consent and Arbitration Agreement. True and accurate copies of Rhi Greer’s onboarding summary, E-Signature Consent and Arbitration Agreement are attached hereto as **Exhibit C**.
 - a. On October 4, 2021, Plaintiff Greer executed the E-Signature Consent. Ex. C at 2-3.
 - b. Also on October 4, 2021, Plaintiff Greer executed the Arbitration Agreement. Ex. C at 4-6. Plaintiff Greer knowingly and voluntarily agreed to abide by the terms of the Arbitration Agreement.
16. Starbucks hired Jonathan Hudson on February 21, 2018. As part of the onboarding process, Plaintiff Hudson received the E-Signature Consent and Arbitration Agreement. True and accurate copies of Jonathan Hudson’s onboarding summary, E-Signature Consent and Arbitration Agreement are attached hereto as **Exhibit D**.
 - a. On February 21, 2018, Plaintiff Hudson executed the E-Signature Consent. Ex. D at 2-3.
 - b. Plaintiff Hudson executed the Arbitration Agreement on February 21, 2018. Ex. D at 4-6. Plaintiff Hudson knowingly and voluntarily agreed to abide by the terms of the Arbitration Agreement.

17. Starbucks hired Natalie Mann on May 24, 2019. As part of the onboarding process, Plaintiff Mann received the E-Signature Consent and Arbitration Agreement. True and accurate copies of Natalie Mann's onboarding summary, E-Signature Consent and Arbitration Agreement are attached hereto as **Exhibit E**.

- a. Plaintiff Mann executed the E-Signature Consent on May 24, 2019. Ex. E at 2-3.
- b. On May 27, 2019, Plaintiff Mann executed the Arbitration Agreement. Ex. E at 4-6. Plaintiff Mann knowingly and voluntarily agreed to abide by the terms of the Arbitration Agreement. Ex. E at 4-6.

18. Starbucks hired Mya Ourada on August 13, 2021. As part of the onboarding process, Plaintiff Ourada received the E-Signature Consent and Arbitration Agreement. True and accurate copies of Mya Ourada's onboarding summary, E-Signature Consent and Arbitration Agreement are attached hereto as **Exhibit F**.

- a. On August 13, 2021, Plaintiff Ourada executed the E-Signature Consent. Ex. F at 2-3.
- b. On August 16, 2021, Plaintiff Ourada executed the Arbitration Agreement. Ex. F at 4-6. Plaintiff Ourada knowingly and voluntarily executed the Arbitration Agreement.

19. Starbucks hired Braden Terrill on November 4, 2021. As part of the onboarding process, Plaintiff Terrill received the E-Signature Consent and Arbitration Agreement. True and accurate copies of Braden Terrill's onboarding summary, E-Signature Consent and Arbitration Agreement are attached hereto as **Exhibit G**.

- a. Braden Terrill executed the E-Signature Consent on November 4, 2021. Ex. G at 2-3.

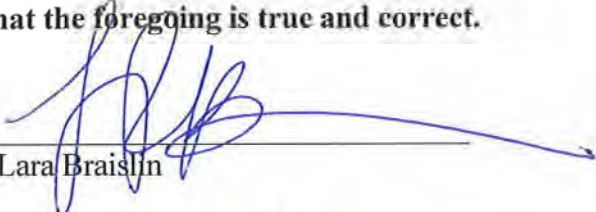
- b. Additionally, Braden Terrill executed the Arbitration Agreement on November 7, 2021. Ex. G at 4-6. Plaintiff Terrill knowingly and voluntarily agreed to be bound by the terms of the Arbitration Agreement.
- 20. Starbucks hired Aneil Tripathi in May 2019. As part of the onboarding process, Plaintiff Tripathi received the E-Signature Consent and Arbitration Agreement. True and accurate copies of Aneil Tripathi's onboarding summary, E-Signature Consent and Arbitration Agreement are attached hereto as **Exhibit H**.
 - a. Aneil Tripathi executed the E-Signature Consent on May 14, 2019. Ex. H at 2-3.
 - b. On June 4, 2019, Plaintiff Tripathi executed the Arbitration Agreement. Ex. H at 4-6. Plaintiff Tripathi knowingly and voluntarily agreed to be bound by the terms of the Arbitration Agreement.
- 21. Based upon their execution of the E-Signature Consent, Plaintiffs agreed that their electronic signatures are valid signatures and sufficient to bind Plaintiffs to the terms of any agreement bearing his/her electronic signature.
- 22. Therefore, Plaintiffs all agreed to be bound by the Arbitration Agreement as each individual Plaintiff executed the Arbitration Agreement, thereby codifying their assent to be bound by that agreement, as evidenced by their electronic signatures on that agreement.
- 23. Plaintiffs' claims in this action clearly relate to their employment with Starbucks, including, without limitation, Plaintiffs' demands and actions toward their manager on August 1, 2022, which Plaintiffs contend involved the terms and conditions of their employment, and Starbucks' response to those activities.
 - a. Specifically, the claims in this action relate to Plaintiffs' actions on August 1, 2022, and Starbucks' response to the same. Those activities involve the terms of

Plaintiffs' employment with Starbucks, including their pay; Starbucks' investigation into Plaintiffs' activities as employees of the Company; the appropriateness of Starbucks' response to Plaintiffs' activities, including Starbucks' process for investigating incidents involving employees; and other events and activities directly related to Plaintiffs' actions as Starbucks employees while at their place of employment.

23. Accordingly, Plaintiffs' claims in this lawsuit are governed by the Arbitration Agreement which Plaintiffs each knowingly and voluntarily agreed to be bound by as part of the terms and conditions of their employment with Starbucks.

THUS ENDS MY DECLARATION.

I hereby declare under penalty of perjury that the foregoing is true and correct.


Lara Braislín

Lara Braislín
Print Name

4/5/2023
Date

Exhibit A

Name	Date Assigned	Due Date	Status	Assignees
REEXPORT1	Apr 7, 2020	Apr 8, 2020	Completed	System Owner
2 On Start	Apr 6, 2020	Apr 6, 2020	Completed	
HM Confirm Start (start)	Apr 6, 2020	Apr 6, 2020	Completed	
HM Confirm Start (US)	Apr 6, 2020	Apr 13, 2020	Completed	Mandy Hardy, Assistant Store Manager Unassigned
HM Confirm Start (end)	Apr 6, 2020	Apr 6, 2020	Completed	
HM Confirm Start (SFM/Siren)			Not Started	
HM Confirm Start (CAN)			Not Started	
DC (route)	Apr 6, 2020	Apr 6, 2020	Completed	
Data Correction - No action required	Apr 6, 2020	May 21, 2020	Terminated	System Owner
Email: First Day Tasks	Apr 7, 2020	Apr 8, 2020	Completed	Skylar Alexis Blume
Arbitration (Start)	Apr 7, 2020	Apr 7, 2020	Completed	
Arbitration Agreement Retail	Apr 7, 2020	Apr 8, 2020	Completed	Skylar Alexis Blume
PDF Arbitration Agreement - no action required	Apr 7, 2020	Jun 16, 2020	Terminated	System Owner
Arbitration (End)	Apr 7, 2020	Apr 7, 2020	Completed	
Arbitration Confirmation Email	Apr 7, 2020	Apr 8, 2020	Completed	System Owner

PLEASE READ THE FOLLOWING CAREFULLY**CONSENT TO RECEIVE, REVIEW, ACCESS, SIGN, & AUTHENTICATE CERTAIN DOCUMENTS, FORMS, LETTERS, & OTHER INFORMATION ELECTRONICALLY****("E-Signature Consent")**

By entering your full name in the text field below, you are agreeing to electronically access, receive, review, sign, and authenticate certain documents, forms, and/or letters ("Materials") covered by the federal Electronic Signatures in Global and National Commerce Act ("E-SIGN"), various state electronic transactions acts ("ETAs"), and/or the separate state laws of Illinois, New York, and Washington, including but not limited to an offer letter; I-9 form; wage statement; and any other employment-related documents.

This E-Signature Consent applies to all Materials, both current and future, related to your employment with Starbucks Corporation.

By entering your full name in the text field below, you are agreeing that your electronic signature is the equivalent of your handwritten (or wet) signature, with all the same legal and binding effect. In certain cases throughout your employment, you may be asked to click buttons labeled "I Agree," "I Acknowledge," or using similar words, or otherwise electronically to acknowledge, accept, or review Materials. This E-Signature Consent applies to those instances as well. You also understand that, in its sole discretion, Starbucks Corporation may mail, hand-deliver, communicate, or otherwise send you hard-copy Materials.

You may obtain a paper copy of any electronic Materials, including ones already or to be accessed, received, reviewed, and/or signed electronically, by sending a written request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134. You will be charged a reasonable fee to cover the costs of providing a paper copy.

You may withdraw your consent to receive, review, access, sign, and authenticate any additional electronic Materials at any time by canceling this E-Signature Consent. You may cancel this E-Signature Consent and withdraw your consent now by not completing this E-Signature Consent form and exiting the system. You may cancel this E-Signature Consent and withdraw your consent in the future by sending a written cancellation request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134 or http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". Any withdrawal of your consent will be effective after a reasonable period of time in order for Starbucks Corporation to process your withdrawal. Withdrawal of your consent will have no legal effect on the validity, effectiveness, or enforceability of (a) any authorization, consent, or e-signature provided by you prior to the effective date of your withdrawal or (b) any document, form, letter, etc. that was provided or made available to you in electronic format prior to the effective date of your withdrawal. Withdrawal of your consent (i.e., canceling this E-Signature Consent) also will not relieve you from the obligation to complete all required Materials. Withdrawal/canceling will require you to receive, review, access, sign, and authenticate these Materials in hard copy instead of electronically. Receiving, reviewing, accessing, signing, and authenticating certain Materials in either electronic or hard copy is a condition of initial and/or continued employment.

You must update Starbucks Corporation regarding the information necessary to contact you electronically (including your personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". If you are employed, Starbucks Corporation may electronically send Materials to your company email address or your personal email address, in its discretion.

To access these electronic Materials, you must have (a) a personal computer or mobile device and an operating system capable of receiving, accessing, displaying, and either printing or storing information, (b) an Internet connection, and (c) Internet Browser Software such as Internet Explorer®, Google Chrome®, Safari®, or Firefox®. Your Internet Browser Software must support 128-bit encryption and

Secure Sockets Layer (SSL) protocol. If you are able to see this E-Signature Consent, your hardware and software should allow you to access these electronic Materials.

To retain any of these electronic Materials, you may either print or download them. To print these Materials on your computer, you will need a printer connected to your computer with adequate paper. To download these Materials on your computer, you will need an available storage medium, like a hard drive on your computer or a removable thumb drive. To print these Materials on your mobile device, you will need a printer linked with your device (e.g., via Wi-Fi, Bluetooth®, etc.) and/or an application (app) that allows for printing. To store these Materials on your mobile device you will need (1) sufficient storage space on your mobile device and (2) an app or function that allows for the capture of electronic data (e.g., a screenshot). Please follow the instructions for your particular computer operating system and/or software to print and/or to download these Materials. Each individual screen may need to be printed and/or downloaded separately. If you have trouble printing and/or downloading, please contact the manufacturer of your personal computer or mobile device, computer operating system, web browser, app, or other relevant software or another information source of your choosing.

By providing my signature, I understand that I am:

- Confirming that I can access this E-Signature Consent.
- Confirming that I have an email address and that the computer I intend to use to access documents electronically has the hardware and software requirements described in this E-Signature Consent, to access and to retain these electronic Materials.
- Agreeing to electronically access, receive, review, sign, and authenticate Materials related in any way to my employment with Starbucks Corporation, in place of hard copy/paper documents and handwritten signatures.
- Confirming that I understand how to cancel this E-Signature Consent, should I ever want to do so.
- Consenting to update Starbucks Corporation regarding the information necessary to contact me electronically (including my personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing at http://customerservice.starbucks.com/app/contact/ask_company_infoHYPERLINK "http://customerservice.starbucks.com/app/contact/ask_company_info"/.
- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Skylar Blume

Signature: Skylar Blume

Date: 4/7/20 Partner Number: 02889375

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

Except as provided below, Starbucks and I agree that the Arbitrator - and not a court or agency - shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

At Will Employment Unchanged by this Agreement. Nothing in this Agreement changes or in any manner modifies my employment-at-will relationship with Starbucks. This Agreement shall remain in effect even after the termination of my employment with Starbucks.

Claims Not Covered by this Agreement. Claims excluded from this Agreement are: (a) claims for workers' compensation, unemployment, or other benefits under a plan or program that provides its own process for dispute resolution; (b) claims for which this Agreement would be invalid as a matter of law; (c) actions to enforce this Agreement, compel arbitration, or enforce or vacate an arbitrator's award under this Agreement; (d) claims asserted on my behalf by another individual if that claim was the subject of a motion to certify a class or collective action and that motion was filed before I entered into this Agreement; and (e) a claim or charge filed with a federal, state, or local administrative agency such as the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, Department of Fair Employment and Housing, the California Labor Commissioner, or other similar agency, though I am giving up the opportunity to recover monetary amounts from any such governmental agency related claim and instead am able to pursue a claim for monetary amounts through arbitration under this Agreement.

I understand that under the National Labor Relations Act I may be entitled to act concertedly or cooperate with others to challenge this Agreement in any forum. I understand Starbucks will not retaliate against me if I act concertedly or cooperate with others to challenge this Agreement.

Except as otherwise indicated above, this Agreement shall be enforceable under and subject to the Federal Arbitration Act, 9 U.S.C. Sections 1 et. seq.

Right to Representation. Both Starbucks and I shall have the right to be represented by an attorney in arbitration. Each side will pay its own attorneys' fees and costs, unless the Arbitrator rules otherwise consistent with applicable law.

How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
Starbucks Coffee Company
2401 Utah Avenue South, S-LA 1
Seattle, Washington 98134

v20200101

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

- a. **Costs.** Starbucks will pay the Arbitrator's fees and the arbitration filing and administrative fees, less my initial payment for the applicable filing fee.
- b. **Location.** The arbitration shall take place at a mutually-convenient location in the state where I work (or most recently worked) for Starbucks.
- c. **Selecting the Arbitrator.** The parties shall confer and attempt to mutually agree on an Arbitrator. If the parties cannot agree, the parties shall contact AAA and request that AAA provide the parties a list of nine arbitrators. The parties shall confer in person or by telephone and select the Arbitrator who will hear the Covered Claim from this list. The party demanding arbitration shall strike a name first, and then the responding party, alternating strikes until only one name remains, who shall be the selected Arbitrator unless he or she is unavailable or otherwise unable to serve.
- d. **Discovery of Evidence.**
 - (i) Each party shall be entitled to 25 interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure ("FRCP").
 - (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP.
 - (iii) Each party shall be entitled a maximum of two eight-hour days of depositions of witnesses, not including experts, in a form consistent with Rule 30 of the FRCP.

Each party shall be entitled to one expert deposition, if necessary, in a form consistent with Rules 26 and 30 of the FRCP.
- e. **Arbitrator's Authority.**
 - (i) The Arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling law and this Agreement. Except as otherwise provided in this Agreement, the Arbitrator shall apply, and shall not deviate from, the substantive law of the state in which the claim(s) arose and/or federal law, as applicable.
 - (ii) The Arbitrator shall have the authority to issue an award or partial award on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact, consistent with Rules 12 and 56 of the FRCP.
 - (iii) The Arbitrator shall decide all disputes related to discovery and may allow additional discovery upon a showing of substantial need by either party or upon a showing of an inability to pursue or defend certain claims. However, consistent with the above prohibition on class, collective, and representative actions, the Arbitrator shall not have authority to order discovery related to any purported class, collective, or representative action.
 - (iv) The Arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The Arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the Arbitrator shall not have the authority to order any remedy that a court would not be authorized to order.
 - (v) The Arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration. Therefore, no decision by any Arbitrator shall serve as precedent in other arbitrations, except in a dispute between Starbucks and me to preclude the same claim from being re-arbitrated.
- f. **Outcome.** No later than 30 days from the date the arbitration hearing concludes, the Arbitrator must issue an award in writing, setting forth in summary form the factual and legal basis for the Arbitrator's determination.

Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision.

ACKNOWLEDGEMENT

Skylar Blume

Signed by

IP Address:

97.82.204.190

4/7/20

Date

Exhibit B

Name	Date Assigned	Due Date	Status	Assignees
Direct Deposit Opt-in			Not Started	
Direct Deposit (check)			Not Started	
PDF: Pay Card Opt-in - no action required			Not Started	
Direct Deposit Opt-in - Invalid Selection			Not Started	
Bus Ethics (start)	Apr 19, 2019	Apr 19, 2019	Completed	
Bus Ethics	Apr 19, 2019	Apr 20, 2019	Completed	Maisie Dowis
Email: Your Standards of Business Conduct	Apr 20, 2019	Apr 21, 2019	Completed	System Owner
Bus Ethics (end)	Apr 20, 2019	Apr 20, 2019	Completed	
PDF Standards of Business Conduct Acknowledgement - No action required	Apr 20, 2019	Jul 19, 2019	Terminated	System Owner
Arbitration (Start)	Apr 19, 2019	Apr 19, 2019	Completed	
Arbitration Agreement (Retail)	Apr 19, 2019	Apr 20, 2019	Completed	Maisie Dowis
PDF Arbitration Agreement - no action required	Apr 20, 2019	Jun 29, 2019	Terminated	System Owner
Arbitration (End)	Apr 20, 2019	Apr 20, 2019	Completed	
Arbitration Confirmation (Email)	Apr 20, 2019	Apr 21, 2019	Completed	Maisie Dowis
Notice (Start)	Apr 19, 2019	Apr 19, 2019	Completed	

PLEASE READ THE FOLLOWING CAREFULLY**CONSENT TO RECEIVE, REVIEW, ACCESS, SIGN, & AUTHENTICATE CERTAIN DOCUMENTS, FORMS, LETTERS, & OTHER INFORMATION ELECTRONICALLY**
("E-Signature Consent")

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You must update Starbucks Corporation regarding the information necessary to contact you electronically (including your personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". If you are employed, Starbucks Corporation may electronically send Materials to your company email address or your personal email address, in its discretion.

To access these electronic Materials, you must have (a) a personal computer or mobile device and an operating system capable of receiving, accessing, displaying, and either printing or storing information, (b) an Internet connection, and (c) Internet Browser Software such as Internet Explorer®, Google Chrome®, Safari®, or Firefox®. Your Internet Browser Software must support 128-bit encryption and

Secure Sockets Layer (SSL) protocol. If you are able to see this E-Signature Consent, your hardware and software should allow you to access these electronic Materials.

To retain any of these electronic Materials, you may either print or download them. To print these Materials on your computer, you will need a printer connected to your computer with adequate paper. To download these Materials on your computer, you will need an available storage medium, like a hard drive on your computer or a removable thumb drive. To print these Materials on your mobile device, you will need a printer linked with your device (e.g., via Wi-Fi, Bluetooth®, etc.) and/or an application (app) that allows for printing. To store these Materials on your mobile device you will need (1) sufficient storage space on your mobile device and (2) an app or function that allows for the capture of electronic data (e.g., a screenshot). Please follow the instructions for your particular computer operating system and/or software to print and/or to download these Materials. Each individual screen may need to be printed and/or downloaded separately. If you have trouble printing and/or downloading, please contact the manufacturer of your personal computer or mobile device, computer operating system, web browser, app, or other relevant software or another information source of your choosing.

By providing my signature, I understand that I am:

- Confirming that I can access this E-Signature Consent.
- Confirming that I have an email address and that the computer I intend to use to access documents electronically has the hardware and software requirements described in this E-Signature Consent, to access and to retain these electronic Materials.
- Agreeing to electronically access, receive, review, sign, and authenticate Materials related in any way to my employment with Starbucks Corporation, in place of hard copy/paper documents and handwritten signatures.
- Confirming that I understand how to cancel this E-Signature Consent, should I ever want to do so.
- Consenting to update Starbucks Corporation regarding the information necessary to contact me electronically (including my personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing at http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/".
- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Maisie Dowis

Signature: Maisie Dowis

Date: 4/19/19 Partner Number: 02674415

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

Except as provided below, Starbucks and I agree that the Arbitrator – and not a court or agency – shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

At Will Employment Unchanged by this Agreement. Nothing in this Agreement changes or in any manner modifies my employment-at-will relationship with Starbucks. This Agreement shall remain in effect even after the termination of my employment with Starbucks.

Claims Not Covered by this Agreement. Claims excluded from this Agreement are: (a) claims for workers' compensation, unemployment, or other benefits under a plan or program that provides its own process for dispute resolution; (b) claims for which this Agreement would be invalid as a matter of law; (c) actions to enforce this Agreement, compel arbitration, or enforce or vacate an arbitrator's award under this Agreement; (d) claims asserted on my behalf by another individual if that claim was the subject of a motion to certify a class or collective action and that motion was filed before I entered into this Agreement; and (e) a claim or charge filed with a federal, state, or local administrative agency such as the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, or similar agency, though I am giving up the opportunity to recover monetary amounts from any such governmental agency related claim and instead am able to pursue a claim for monetary amounts through arbitration under this Agreement.

I understand that under the National Labor Relations Act I may be entitled to act concertedly or cooperate with others to challenge this Agreement in any forum. I understand Starbucks will not retaliate against me if I act concertedly or cooperate with others to challenge this Agreement.

Right to Representation. Both Starbucks and I shall have the right to be represented by an attorney in arbitration. Each side will pay its own attorneys' fees and costs, unless the Arbitrator rules otherwise consistent with applicable law.

How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
Starbucks Coffee Company
2401 Utah Avenue South, S-LA 1
Seattle, Washington 98134

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and www.law.cornell.edu/rules/frcp/rule_68, respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

- a. **Costs.** Starbucks will pay the Arbitrator's fees and the arbitration filing and administrative fees, less my initial payment for the applicable filing fee.
- b. **Location.** The arbitration shall take place at a mutually-convenient location in the state where I work (or most recently worked) for Starbucks.
- c. **Selecting the Arbitrator.** The parties shall confer and attempt to mutually agree on an Arbitrator. If the parties cannot agree, the parties shall contact AAA and request that AAA provide the parties a list of nine arbitrators. The parties shall confer in person or by telephone and select the Arbitrator who will hear the Covered Claim from this list. The party demanding arbitration shall strike a name first, and then the responding party, alternating strikes until only one name remains, who shall be the selected Arbitrator unless he or she is unavailable or otherwise unable to serve.
- d. **Discovery of Evidence.**
 - (i) Each party shall be entitled to three interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure ("FRCP").
 - (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP.
 - (iii) Each party shall be entitled a maximum of two eight-hour days of depositions of witnesses in a form consistent with Rule 30 of the FRCP.
- e. **Arbitrator's Authority.**
 - (i) The Arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling law and this Agreement. Except as otherwise provided in this Agreement, the Arbitrator shall apply, and shall not deviate from, the substantive law of the state in which the claim(s) arose and/or federal law, as applicable.
 - (ii) The Arbitrator shall have the authority to issue an award or partial award on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact, consistent with Rules 12 and 56 of the FRCP.
 - (iii) The Arbitrator shall decide all disputes related to discovery and may allow additional discovery upon a showing of substantial need by either party or upon a showing of an inability to pursue or defend certain claims. However, consistent with the above prohibition on class, collective, and representative actions, the Arbitrator shall not have authority to order discovery related to any purported class, collective, or representative action.
 - (iv) The Arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The Arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the Arbitrator shall not have the authority to order any remedy that a court would not be authorized to order.
 - (v) The Arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration. Therefore, no decision by any Arbitrator shall serve as precedent in other arbitrations, except in a dispute between Starbucks and me to preclude the same claim from being re-arbitrated.
- f. **Outcome.** No later than 30 days from the date the arbitration hearing concludes, the Arbitrator must issue an award in writing, setting forth in summary form the factual and legal basis for the Arbitrator's determination.

Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision. Should a court or arbitrator determine that arbitration is unavailable for any reason, the parties agree and stipulate that they hereby waive any right to a jury and instead agree and stipulate that the claim(s) at issue will be heard only by a judge.

ACKNOWLEDGEMENT

Maisie Dowis

4/20/19

Signed by

Date

IP Address: 24.216.34.19

Exhibit C

Name	Date Assigned	Due Date	Status	Assignees
Arbitration (Start)	Oct 4, 2021	Oct 4, 2021	Completed	
Arbitration Agreement Retail	Oct 4, 2021	Oct 5, 2021	Completed	Rhiannon Love Greer
PDF Arbitration Agreement - no action required	Oct 4, 2021	Dec 13, 2021	Terminated	System Owner
Arbitration (End)	Oct 4, 2021	Oct 4, 2021	Completed	
Arbitration Confirmation Email	Oct 4, 2021	Oct 5, 2021	Completed	System Owner
Arbitration (route)			Not Started	
Arbitration (bypass)			Not Started	
Arbitration Agreement NonRetail			Not Started	
EEO Self ID (Start)	Oct 4, 2021	Oct 4, 2021	Completed	
EEO Self ID	Oct 4, 2021	Oct 5, 2021	Completed	Rhiannon Love Greer
EEO Self ID (End)	Oct 4, 2021	Oct 4, 2021	Completed	
EEO Self ID (Bypass)			Not Started	
EEO Visual ID (Start)	Oct 4, 2021	Oct 4, 2021	Completed	
EEO Visual ID (Route)	Oct 4, 2021	Oct 4, 2021	Completed	
EEO Visual Identification - Ethnicity and Race			Not Started	

PLEASE READ THE FOLLOWING CAREFULLY**CONSENT TO RECEIVE, REVIEW, ACCESS, SIGN, & AUTHENTICATE CERTAIN DOCUMENTS, FORMS, LETTERS, & OTHER INFORMATION ELECTRONICALLY**
("E-Signature Consent")

By entering your full name in the text field below, you are agreeing to electronically access, receive, review, sign, and authenticate certain documents, forms, and/or letters ("Materials") covered by the federal Electronic Signatures in Global and National Commerce Act ("E-SIGN"), various state electronic transactions acts ("ETAs"), and/or the separate state laws of Illinois, New York, and Washington, including but not limited to an offer letter; I-9 form; wage statement; and any other employment-related documents.

This E-Signature Consent applies to all Materials, both current and future, related to your employment with Starbucks Corporation.

By entering your full name in the text field below, you are agreeing that your electronic signature is the equivalent of your handwritten (or wet) signature, with all the same legal and binding effect. In certain cases throughout your employment, you may be asked to click buttons labeled "I Agree," "I Acknowledge," or using similar words, or otherwise electronically to acknowledge, accept, or review Materials. This E-Signature Consent applies to those instances as well. You also understand that, in its sole discretion, Starbucks Corporation may mail, hand-deliver, communicate, or otherwise send you hard-copy Materials.

You may obtain a paper copy of any electronic Materials, including ones already or to be accessed, received, reviewed, and/or signed electronically, by sending a written request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134. You will be charged a reasonable fee to cover the costs of providing a paper copy.

You may withdraw your consent to receive, review, access, sign, and authenticate any additional electronic Materials at any time by canceling this E-Signature Consent. You may cancel this E-Signature Consent and withdraw your consent now by not completing this E-Signature Consent form and exiting the system. You may cancel this E-Signature Consent and withdraw your consent in the future by sending a written cancellation request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134 or http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". Any withdrawal of your consent will be effective after a reasonable period of time in order for Starbucks Corporation to process your withdrawal. Withdrawal of your consent will have no legal effect on the validity, effectiveness, or enforceability of (a) any authorization, consent, or e-signature provided by you prior to the effective date of your withdrawal or (b) any document, form, letter, etc. that was provided or made available to you in electronic format prior to the effective date of your withdrawal. Withdrawal of your consent (i.e., canceling this E-Signature Consent) also will not relieve you from the obligation to complete all required Materials. Withdrawal/canceling will require you to receive, review, access, sign, and authenticate these Materials in hard copy instead of electronically. Receiving, reviewing, accessing, signing, and authenticating certain Materials in either electronic or hard copy is a condition of initial and/or continued employment.

You must update Starbucks Corporation regarding the information necessary to contact you electronically (including your personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". If you are employed, Starbucks Corporation may electronically send Materials to your company email address or your personal email address, in its discretion.

To access these electronic Materials, you must have (a) a personal computer or mobile device and an operating system capable of receiving, accessing, displaying, and either printing or storing information, (b) an Internet connection, and (c) Internet Browser Software such as Internet Explorer®, Google Chrome®, Safari®, or Firefox®. Your Internet Browser Software must support 128-bit encryption and

Secure Sockets Layer (SSL) protocol. If you are able to see this E-Signature Consent, your hardware and software should allow you to access these electronic Materials.

To retain any of these electronic Materials, you may either print or download them. To print these Materials on your computer, you will need a printer connected to your computer with adequate paper. To download these Materials on your computer, you will need an available storage medium, like a hard drive on your computer or a removable thumb drive. To print these Materials on your mobile device, you will need a printer linked with your device (e.g., via Wi-Fi, Bluetooth®, etc.) and/or an application (app) that allows for printing. To store these Materials on your mobile device you will need (1) sufficient storage space on your mobile device and (2) an app or function that allows for the capture of electronic data (e.g., a screenshot). Please follow the instructions for your particular computer operating system and/or software to print and/or to download these Materials. Each individual screen may need to be printed and/or downloaded separately. If you have trouble printing and/or downloading, please contact the manufacturer of your personal computer or mobile device, computer operating system, web browser, app, or other relevant software or another information source of your choosing.

By providing my signature, I understand that I am:

- Confirming that I can access this E-Signature Consent.
- Confirming that I have an email address and that the computer I intend to use to access documents electronically has the hardware and software requirements described in this E-Signature Consent, to access and to retain these electronic Materials.
- Agreeing to electronically access, receive, review, sign, and authenticate Materials related in any way to my employment with Starbucks Corporation, in place of hard copy/paper documents and handwritten signatures.
- Confirming that I understand how to cancel this E-Signature Consent, should I ever want to do so.
- Consenting to update Starbucks Corporation regarding the information necessary to contact me electronically (including my personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing at http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/".
- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Rhiannon Greer

Signature: Rhiannon Greer

Date: 10/4/21 Partner Number: 32089621

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

Except as provided below, Starbucks and I agree that the Arbitrator - and not a court or agency - shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

At Will Employment Unchanged by this Agreement. Nothing in this Agreement changes or in any manner modifies my employment-at-will relationship with Starbucks. This Agreement shall remain in effect even after the termination of my employment with Starbucks.

Claims Not Covered by this Agreement. Claims excluded from this Agreement are: (a) claims for workers' compensation, unemployment, or other benefits under a plan or program that provides its own process for dispute resolution; (b) claims for which this Agreement would be invalid as a matter of law; (c) actions to enforce this Agreement, compel arbitration, or enforce or vacate an arbitrator's award under this Agreement; (d) claims asserted on my behalf by another individual if that claim was the subject of a motion to certify a class or collective action and that motion was filed before I entered into this Agreement; and (e) a claim or charge filed with a federal, state, or local administrative agency such as the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, Department of Fair Employment and Housing, the California Labor Commissioner, or other similar agency, though I am giving up the opportunity to recover monetary amounts from any such governmental agency related claim and instead am able to pursue a claim for monetary amounts through arbitration under this Agreement.

I understand that under the National Labor Relations Act I may be entitled to act concertedly or cooperate with others to challenge this Agreement in any forum. I understand Starbucks will not retaliate against me if I act concertedly or cooperate with others to challenge this Agreement.

Except as otherwise indicated above, this Agreement shall be enforceable under and subject to the Federal Arbitration Act, 9 U.S.C. Sections 1 et. seq.

Right to Representation. Both Starbucks and I shall have the right to be represented by an attorney in arbitration. Each side will pay its own attorneys' fees and costs, unless the Arbitrator rules otherwise consistent with applicable law.

How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
Starbucks Coffee Company
2401 Utah Avenue South, S-LA 1
Seattle, Washington 98134

v20200101

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

- a. **Costs.** Starbucks will pay the Arbitrator's fees and the arbitration filing and administrative fees, less my initial payment for the applicable filing fee.
- b. **Location.** The arbitration shall take place at a mutually-convenient location in the state where I work (or most recently worked) for Starbucks.
- c. **Selecting the Arbitrator.** The parties shall confer and attempt to mutually agree on an Arbitrator. If the parties cannot agree, the parties shall contact AAA and request that AAA provide the parties a list of nine arbitrators. The parties shall confer in person or by telephone and select the Arbitrator who will hear the Covered Claim from this list. The party demanding arbitration shall strike a name first, and then the responding party, alternating strikes until only one name remains, who shall be the selected Arbitrator unless he or she is unavailable or otherwise unable to serve.
- d. **Discovery of Evidence.**
 - (i) Each party shall be entitled to 25 interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure ("FRCP").
 - (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP.
 - (iii) Each party shall be entitled a maximum of two eight-hour days of depositions of witnesses, not including experts, in a form consistent with Rule 30 of the FRCP.

Each party shall be entitled to one expert deposition, if necessary, in a form consistent with Rules 26 and 30 of the FRCP.
- e. **Arbitrator's Authority.**
 - (i) The Arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling law and this Agreement. Except as otherwise provided in this Agreement, the Arbitrator shall apply, and shall not deviate from, the substantive law of the state in which the claim(s) arose and/or federal law, as applicable.
 - (ii) The Arbitrator shall have the authority to issue an award or partial award on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact, consistent with Rules 12 and 56 of the FRCP.
 - (iii) The Arbitrator shall decide all disputes related to discovery and may allow additional discovery upon a showing of substantial need by either party or upon a showing of an inability to pursue or defend certain claims. However, consistent with the above prohibition on class, collective, and representative actions, the Arbitrator shall not have authority to order discovery related to any purported class, collective, or representative action.
 - (iv) The Arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The Arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the Arbitrator shall not have the authority to order any remedy that a court would not be authorized to order.
 - (v) The Arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration. Therefore, no decision by any Arbitrator shall serve as precedent in other arbitrations, except in a dispute between Starbucks and me to preclude the same claim from being re-arbitrated.
- f. **Outcome.** No later than 30 days from the date the arbitration hearing concludes, the Arbitrator must issue an award in writing, setting forth in summary form the factual and legal basis for the Arbitrator's determination.

Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision.

ACKNOWLEDGEMENT

Rhiannon Greer

10/4/21

Signed by

Date

IP Address: 24.178.148.3

Exhibit D

Name	Date Assigned	Due Date	Status	Assignees
Direct Deposit Follow-Up Email	Feb 21, 2018	Feb 22, 2018	Completed	System Owner
Direct Deposit Information - Retail			Not Started	
Direct Deposit Canceled for Inaction			Not Started	
Bus Ethics (start)	Feb 21, 2018	Feb 21, 2018	Completed	
Bus Ethics	Feb 21, 2018	Feb 22, 2018	Completed	Jonathan Hudson
Email: Your Standards of Business Conduct	Feb 21, 2018	Feb 22, 2018	Completed	System Owner
Bus Ethics (end)	Feb 21, 2018	Feb 21, 2018	Completed	
PDF Standards of Business Conduct Acknowledgement - No action required	Feb 21, 2018	May 22, 2018	Terminated	System Owner
Arbitration (Start)	Feb 21, 2018	Feb 21, 2018	Completed	
Arbitration Agreement (Retail)	Feb 21, 2018	Feb 22, 2018	Completed	Jonathan Hudson
PDF Arbitration Agreement - no action required	Feb 21, 2018	May 2, 2018	Terminated	System Owner
Arbitration (End)	Feb 21, 2018	Feb 21, 2018	Completed	
Arbitration Confirmation (Email)	Feb 21, 2018	Feb 22, 2018	Completed	Jonathan Hudson
EEO Self-ID Race/Gender	Feb 21, 2018	Feb 22, 2018	Completed	Jonathan Hudson
EEO (Start)	Feb 21, 2018	Feb 21, 2018	Completed	

PLEASE READ THE FOLLOWING CAREFULLY**CONSENT TO RECEIVE, REVIEW, ACCESS, SIGN, & AUTHENTICATE CERTAIN DOCUMENTS, FORMS, LETTERS, & OTHER INFORMATION ELECTRONICALLY****("E-Signature Consent")**

By entering your full name in the text field below, you are agreeing to electronically access, receive, review, sign, and authenticate certain documents, forms, and/or letters ("Materials") covered by the federal Electronic Signatures in Global and National Commerce Act ("E-SIGN"), various state electronic transactions acts ("ETAs"), and/or the separate state laws of Illinois, New York, and Washington, including but not limited to an offer letter; I-9 form; wage statement; and any other employment-related documents.

This E-Signature Consent applies to all Materials, both current and future, related to your employment with Starbucks Corporation.

By entering your full name in the text field below, you are agreeing that your electronic signature is the equivalent of your handwritten (or wet) signature, with all the same legal and binding effect. In certain cases throughout your employment, you may be asked to click buttons labeled "I Agree," "I Acknowledge," or using similar words, or otherwise electronically to acknowledge, accept, or review Materials. This E-Signature Consent applies to those instances as well. You also understand that, in its sole discretion, Starbucks Corporation may mail, hand-deliver, communicate, or otherwise send you hard-copy Materials.

You may obtain a paper copy of any electronic Materials, including ones already or to be accessed, received, reviewed, and/or signed electronically, by sending a written request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134. You will be charged a reasonable fee to cover the costs of providing a paper copy.

You may withdraw your consent to receive, review, access, sign, and authenticate any additional electronic Materials at any time by canceling this E-Signature Consent. You may cancel this E-Signature Consent and withdraw your consent now by not completing this E-Signature Consent form and exiting the system. You may cancel this E-Signature Consent and withdraw your consent in the future by sending a written cancellation request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134 or http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". Any withdrawal of your consent will be effective after a reasonable period of time in order for Starbucks Corporation to process your withdrawal. Withdrawal of your consent will have no legal effect on the validity, effectiveness, or enforceability of (a) any authorization, consent, or e-signature provided by you prior to the effective date of your withdrawal or (b) any document, form, letter, etc. that was provided or made available to you in electronic format prior to the effective date of your withdrawal. Withdrawal of your consent (i.e., canceling this E-Signature Consent) also will not relieve you from the obligation to complete all required Materials. Withdrawal/canceling will require you to receive, review, access, sign, and authenticate these Materials in hard copy instead of electronically. Receiving, reviewing, accessing, signing, and authenticating certain Materials in either electronic or hard copy is a condition of initial and/or continued employment.

You must update Starbucks Corporation regarding the information necessary to contact you electronically (including your personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". If you are employed, Starbucks Corporation may electronically send Materials to your company email address or your personal email address, in its discretion.

To access these electronic Materials, you must have (a) a personal computer or mobile device and an operating system capable of receiving, accessing, displaying, and either printing or storing information, (b) an Internet connection, and (c) Internet Browser Software such as Internet Explorer®, Google Chrome®, Safari®, or Firefox®. Your Internet Browser Software must support 128-bit encryption and

Secure Sockets Layer (SSL) protocol. If you are able to see this E-Signature Consent, your hardware and software should allow you to access these electronic Materials.

To retain any of these electronic Materials, you may either print or download them. To print these Materials on your computer, you will need a printer connected to your computer with adequate paper. To download these Materials on your computer, you will need an available storage medium, like a hard drive on your computer or a removable thumb drive. To print these Materials on your mobile device, you will need a printer linked with your device (e.g., via Wi-Fi, Bluetooth®, etc.) and/or an application (app) that allows for printing. To store these Materials on your mobile device you will need (1) sufficient storage space on your mobile device and (2) an app or function that allows for the capture of electronic data (e.g., a screenshot). Please follow the instructions for your particular computer operating system and/or software to print and/or to download these Materials. Each individual screen may need to be printed and/or downloaded separately. If you have trouble printing and/or downloading, please contact the manufacturer of your personal computer or mobile device, computer operating system, web browser, app, or other relevant software or another information source of your choosing.

By providing my signature, I understand that I am:

- Confirming that I can access this E-Signature Consent.
- Confirming that I have an email address and that the computer I intend to use to access documents electronically has the hardware and software requirements described in this E-Signature Consent, to access and to retain these electronic Materials.
- Agreeing to electronically access, receive, review, sign, and authenticate Materials related in any way to my employment with Starbucks Corporation, in place of hard copy/paper documents and handwritten signatures.
- Confirming that I understand how to cancel this E-Signature Consent, should I ever want to do so.
- Consenting to update Starbucks Corporation regarding the information necessary to contact me electronically (including my personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing at http://customerservice.starbucks.com/app/contact/ask_company_infoHYPERLINK "http://customerservice.starbucks.com/app/contact/ask_company_info"/.
- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Jonathan Hudson

Signature: Jonathan Hudson

Date: 2/21/18 Partner Number: 02484465

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

Except as provided below, Starbucks and I agree that the Arbitrator – and not a court or agency – shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

At Will Employment Unchanged by this Agreement. Nothing in this Agreement changes or in any manner modifies my employment-at-will relationship with Starbucks. This Agreement shall remain in effect even after the termination of my employment with Starbucks.

Claims Not Covered by this Agreement. Claims excluded from this Agreement are: (a) claims for workers' compensation, unemployment, or other benefits under a plan or program that provides its own process for dispute resolution; (b) claims for which this Agreement would be invalid as a matter of law; (c) actions to enforce this Agreement, compel arbitration, or enforce or vacate an arbitrator's award under this Agreement; (d) claims asserted on my behalf by another individual if that claim was the subject of a motion to certify a class or collective action and that motion was filed before I entered into this Agreement; and (e) a claim or charge filed with a federal, state, or local administrative agency such as the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, or similar agency, though I am giving up the opportunity to recover monetary amounts from any such governmental agency related claim and instead am able to pursue a claim for monetary amounts through arbitration under this Agreement.

I understand that under the National Labor Relations Act I may be entitled to act concertedly or cooperate with others to challenge this Agreement in any forum. I understand Starbucks will not retaliate against me if I act concertedly or cooperate with others to challenge this Agreement.

Right to Representation. Both Starbucks and I shall have the right to be represented by an attorney in arbitration. Each side will pay its own attorneys' fees and costs, unless the Arbitrator rules otherwise consistent with applicable law.

How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
Starbucks Coffee Company
2401 Utah Avenue South, S-LA 1
Seattle, Washington 98134

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and www.law.cornell.edu/rules/frcp/rule_68, respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

- a. **Costs.** Starbucks will pay the Arbitrator's fees and the arbitration filing and administrative fees, less my initial payment for the applicable filing fee.
- b. **Location.** The arbitration shall take place at a mutually-convenient location in the state where I work (or most recently worked) for Starbucks.
- c. **Selecting the Arbitrator.** The parties shall confer and attempt to mutually agree on an Arbitrator. If the parties cannot agree, the parties shall contact AAA and request that AAA provide the parties a list of nine arbitrators. The parties shall confer in person or by telephone and select the Arbitrator who will hear the Covered Claim from this list. The party demanding arbitration shall strike a name first, and then the responding party, alternating strikes until only one name remains, who shall be the selected Arbitrator unless he or she is unavailable or otherwise unable to serve.
- d. **Discovery of Evidence.**
 - (i) Each party shall be entitled to three interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure ("FRCP").
 - (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP.
 - (iii) Each party shall be entitled a maximum of two eight-hour days of depositions of witnesses in a form consistent with Rule 30 of the FRCP.
- e. **Arbitrator's Authority.**
 - (i) The Arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling law and this Agreement. Except as otherwise provided in this Agreement, the Arbitrator shall apply, and shall not deviate from, the substantive law of the state in which the claim(s) arose and/or federal law, as applicable.
 - (ii) The Arbitrator shall have the authority to issue an award or partial award on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact, consistent with Rules 12 and 56 of the FRCP.
 - (iii) The Arbitrator shall decide all disputes related to discovery and may allow additional discovery upon a showing of substantial need by either party or upon a showing of an inability to pursue or defend certain claims. However, consistent with the above prohibition on class, collective, and representative actions, the Arbitrator shall not have authority to order discovery related to any purported class, collective, or representative action.
 - (iv) The Arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The Arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the Arbitrator shall not have the authority to order any remedy that a court would not be authorized to order.
 - (v) The Arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration. Therefore, no decision by any Arbitrator shall serve as precedent in other arbitrations, except in a dispute between Starbucks and me to preclude the same claim from being re-arbitrated.
- f. **Outcome.** No later than 30 days from the date the arbitration hearing concludes, the Arbitrator must issue an award in writing, setting forth in summary form the factual and legal basis for the Arbitrator's determination.

Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision. Should a court or arbitrator determine that arbitration is unavailable for any reason, the parties agree and stipulate that they hereby waive any right to a jury and instead agree and stipulate that the claim(s) at issue will be heard only by a judge.

ACKNOWLEDGEMENT

Jonathan Hudson

2/21/18

Signed by

Date

IP Address: 98.99.251.252

ELECTRONICALLY FILED - 2023 Apr 07 12:58 PM - ANDERSON - COMMON PLEAS - CASE#2022CP0402159

Exhibit E

Name	Date Assigned	Due Date	Status	Assignees
Arbitration (Start)	May 24, 2019	May 24, 2019	Completed	
Arbitration Agreement (Retail)	May 24, 2019	May 25, 2019	Completed	Natalie Michelle Mann
PDF Arbitration Agreement - no action required	May 27, 2019	Aug 5, 2019	Terminated	System Owner
Arbitration (End)	May 27, 2019	May 27, 2019	Completed	
Arbitration Confirmation (Email)	May 27, 2019	May 28, 2019	Completed	Natalie Michelle Mann
Notice (Start)	May 24, 2019	May 24, 2019	Completed	
Notice OR Sick			Not Started	
Notice (End)	May 24, 2019	May 24, 2019	Completed	
Notice CA (Start)			Not Started	
Notice CA Cities (Bypass)			Not Started	
Notice CA Cities (End)			Not Started	
Notice CA Oakland Sick			Not Started	
Notice CA Worker's Comp			Not Started	
Notice CA Pay (View/Print)			Not Started	
Notice CA Pay Ask			Not Started	

PLEASE READ THE FOLLOWING CAREFULLY**CONSENT TO RECEIVE, REVIEW, ACCESS, SIGN, & AUTHENTICATE CERTAIN DOCUMENTS, FORMS, LETTERS, & OTHER INFORMATION ELECTRONICALLY****("E-Signature Consent")**

By entering your full name in the text field below, you are agreeing to electronically access, receive, review, sign, and authenticate certain documents, forms, and/or letters ("Materials") covered by the federal Electronic Signatures in Global and National Commerce Act ("E-SIGN"), various state electronic transactions acts ("ETAs"), and/or the separate state laws of Illinois, New York, and Washington, including but not limited to an offer letter; I-9 form; wage statement; and any other employment-related documents.

This E-Signature Consent applies to all Materials, both current and future, related to your employment with Starbucks Corporation.

By entering your full name in the text field below, you are agreeing that your electronic signature is the equivalent of your handwritten (or wet) signature, with all the same legal and binding effect. In certain cases throughout your employment, you may be asked to click buttons labeled "I Agree," "I Acknowledge," or using similar words, or otherwise electronically to acknowledge, accept, or review Materials. This E-Signature Consent applies to those instances as well. You also understand that, in its sole discretion, Starbucks Corporation may mail, hand-deliver, communicate, or otherwise send you hard-copy Materials.

You may obtain a paper copy of any electronic Materials, including ones already or to be accessed, received, reviewed, and/or signed electronically, by sending a written request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134. You will be charged a reasonable fee to cover the costs of providing a paper copy.

You may withdraw your consent to receive, review, access, sign, and authenticate any additional electronic Materials at any time by canceling this E-Signature Consent. You may cancel this E-Signature Consent and withdraw your consent now by not completing this E-Signature Consent form and exiting the system. You may cancel this E-Signature Consent and withdraw your consent in the future by sending a written cancellation request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134 or http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". Any withdrawal of your consent will be effective after a reasonable period of time in order for Starbucks Corporation to process your withdrawal. Withdrawal of your consent will have no legal effect on the validity, effectiveness, or enforceability of (a) any authorization, consent, or e-signature provided by you prior to the effective date of your withdrawal or (b) any document, form, letter, etc. that was provided or made available to you in electronic format prior to the effective date of your withdrawal. Withdrawal of your consent (i.e., canceling this E-Signature Consent) also will not relieve you from the obligation to complete all required Materials. Withdrawal/canceling will require you to receive, review, access, sign, and authenticate these Materials in hard copy instead of electronically. Receiving, reviewing, accessing, signing, and authenticating certain Materials in either electronic or hard copy is a condition of initial and/or continued employment.

You must update Starbucks Corporation regarding the information necessary to contact you electronically (including your personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". If you are employed, Starbucks Corporation may electronically send Materials to your company email address or your personal email address, in its discretion.

To access these electronic Materials, you must have (a) a personal computer or mobile device and an operating system capable of receiving, accessing, displaying, and either printing or storing information, (b) an Internet connection, and (c) Internet Browser Software such as Internet Explorer®, Google Chrome®, Safari®, or Firefox®. Your Internet Browser Software must support 128-bit encryption and

Secure Sockets Layer (SSL) protocol. If you are able to see this E-Signature Consent, your hardware and software should allow you to access these electronic Materials.

To retain any of these electronic Materials, you may either print or download them. To print these Materials on your computer, you will need a printer connected to your computer with adequate paper. To download these Materials on your computer, you will need an available storage medium, like a hard drive on your computer or a removable thumb drive. To print these Materials on your mobile device, you will need a printer linked with your device (e.g., via Wi-Fi, Bluetooth®, etc.) and/or an application (app) that allows for printing. To store these Materials on your mobile device you will need (1) sufficient storage space on your mobile device and (2) an app or function that allows for the capture of electronic data (e.g., a screenshot). Please follow the instructions for your particular computer operating system and/or software to print and/or to download these Materials. Each individual screen may need to be printed and/or downloaded separately. If you have trouble printing and/or downloading, please contact the manufacturer of your personal computer or mobile device, computer operating system, web browser, app, or other relevant software or another information source of your choosing.

By providing my signature, I understand that I am:

- Confirming that I can access this E-Signature Consent.
- Confirming that I have an email address and that the computer I intend to use to access documents electronically has the hardware and software requirements described in this E-Signature Consent, to access and to retain these electronic Materials.
- Agreeing to electronically access, receive, review, sign, and authenticate Materials related in any way to my employment with Starbucks Corporation, in place of hard copy/paper documents and handwritten signatures.
- Confirming that I understand how to cancel this E-Signature Consent, should I ever want to do so.
- Consenting to update Starbucks Corporation regarding the information necessary to contact me electronically (including my personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing at http://customerservice.starbucks.com/app/contact/ask_company_infoHYPERLINK "http://customerservice.starbucks.com/app/contact/ask_company_info"/.
- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Natalie Mann

Signature: Natalie Mann

Date: 5/24/19 Partner Number: 02716510

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

Except as provided below, Starbucks and I agree that the Arbitrator – and not a court or agency – shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

At Will Employment Unchanged by this Agreement. Nothing in this Agreement changes or in any manner modifies my employment-at-will relationship with Starbucks. This Agreement shall remain in effect even after the termination of my employment with Starbucks.

Claims Not Covered by this Agreement. Claims excluded from this Agreement are: (a) claims for workers' compensation, unemployment, or other benefits under a plan or program that provides its own process for dispute resolution; (b) claims for which this Agreement would be invalid as a matter of law; (c) actions to enforce this Agreement, compel arbitration, or enforce or vacate an arbitrator's award under this Agreement; (d) claims asserted on my behalf by another individual if that claim was the subject of a motion to certify a class or collective action and that motion was filed before I entered into this Agreement; and (e) a claim or charge filed with a federal, state, or local administrative agency such as the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, or similar agency, though I am giving up the opportunity to recover monetary amounts from any such governmental agency related claim and instead am able to pursue a claim for monetary amounts through arbitration under this Agreement.

I understand that under the National Labor Relations Act I may be entitled to act concertedly or cooperate with others to challenge this Agreement in any forum. I understand Starbucks will not retaliate against me if I act concertedly or cooperate with others to challenge this Agreement.

Right to Representation. Both Starbucks and I shall have the right to be represented by an attorney in arbitration. Each side will pay its own attorneys' fees and costs, unless the Arbitrator rules otherwise consistent with applicable law.

How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
Starbucks Coffee Company
2401 Utah Avenue South, S-LA 1
Seattle, Washington 98134

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and www.law.cornell.edu/rules/frcp/rule_68, respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

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Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision. Should a court or arbitrator determine that arbitration is unavailable for any reason, the parties agree and stipulate that they hereby waive any right to a jury and instead agree and stipulate that the claim(s) at issue will be heard only by a judge.

ACKNOWLEDGEMENT

Natalie Mann

5/27/19

Signed by

Date

IP Address: 99.85.126.213

ELECTRONICALLY FILED - 2023 Apr 07 12:58 PM - ANDERSON - COMMON PLEAS - CASE#2022CP0402159

Exhibit F

Name	Date Assigned	Due Date	Status	Assignees
HIRE (check 2)	Aug 13, 2021	Aug 13, 2021	Completed	
Arbitration (Start)	Aug 16, 2021	Aug 16, 2021	Completed	
Arbitration Agreement Retail	Aug 16, 2021	Aug 17, 2021	Completed	Mya Marie Ourada
PDF Arbitration Agreement - no action required	Aug 16, 2021	Oct 25, 2021	Terminated	System Owner
Arbitration (End)	Aug 16, 2021	Aug 16, 2021	Completed	
Arbitration Confirmation Email	Aug 16, 2021	Aug 17, 2021	Completed	System Owner
Arbitration (route)			Not Started	
Arbitration (bypass)			Not Started	
Arbitration Agreement NonRetail			Not Started	
EEO Self ID (Start)	Aug 16, 2021	Aug 16, 2021	Completed	
EEO Self ID	Aug 16, 2021	Aug 17, 2021	Completed	Mya Marie Ourada
EEO Self ID (End)	Aug 16, 2021	Aug 16, 2021	Completed	
EEO Self ID (Bypass)			Not Started	
EEO Visual ID (Start)	Aug 16, 2021	Aug 16, 2021	Completed	
EEO Visual ID (Route)	Aug 16, 2021	Aug 16, 2021	Completed	

PLEASE READ THE FOLLOWING CAREFULLY**CONSENT TO RECEIVE, REVIEW, ACCESS, SIGN, & AUTHENTICATE CERTAIN DOCUMENTS, FORMS, LETTERS, & OTHER INFORMATION ELECTRONICALLY****("E-Signature Consent")**

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You must update Starbucks Corporation regarding the information necessary to contact you electronically (including your personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". If you are employed, Starbucks Corporation may electronically send Materials to your company email address or your personal email address, in its discretion.

To access these electronic Materials, you must have (a) a personal computer or mobile device and an operating system capable of receiving, accessing, displaying, and either printing or storing information, (b) an Internet connection, and (c) Internet Browser Software such as Internet Explorer®, Google Chrome®, Safari®, or Firefox®. Your Internet Browser Software must support 128-bit encryption and

Secure Sockets Layer (SSL) protocol. If you are able to see this E-Signature Consent, your hardware and software should allow you to access these electronic Materials.

To retain any of these electronic Materials, you may either print or download them. To print these Materials on your computer, you will need a printer connected to your computer with adequate paper. To download these Materials on your computer, you will need an available storage medium, like a hard drive on your computer or a removable thumb drive. To print these Materials on your mobile device, you will need a printer linked with your device (e.g., via Wi-Fi, Bluetooth®, etc.) and/or an application (app) that allows for printing. To store these Materials on your mobile device you will need (1) sufficient storage space on your mobile device and (2) an app or function that allows for the capture of electronic data (e.g., a screenshot). Please follow the instructions for your particular computer operating system and/or software to print and/or to download these Materials. Each individual screen may need to be printed and/or downloaded separately. If you have trouble printing and/or downloading, please contact the manufacturer of your personal computer or mobile device, computer operating system, web browser, app, or other relevant software or another information source of your choosing.

By providing my signature, I understand that I am:

- Confirming that I can access this E-Signature Consent.
- Confirming that I have an email address and that the computer I intend to use to access documents electronically has the hardware and software requirements described in this E-Signature Consent, to access and to retain these electronic Materials.
- Agreeing to electronically access, receive, review, sign, and authenticate Materials related in any way to my employment with Starbucks Corporation, in place of hard copy/paper documents and handwritten signatures.
- Confirming that I understand how to cancel this E-Signature Consent, should I ever want to do so.
- Consenting to update Starbucks Corporation regarding the information necessary to contact me electronically (including my personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing at http://customerservice.starbucks.com/app/contact/ask_company_infoHYPERLINK "http://customerservice.starbucks.com/app/contact/ask_company_info"/.
- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Mya Ourada

Signature: Mya Ourada

Date: 8/13/21 Partner Number: 32059375

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

Except as provided below, Starbucks and I agree that the Arbitrator - and not a court or agency - shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

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I understand that under the National Labor Relations Act I may be entitled to act concertedly or cooperate with others to challenge this Agreement in any forum. I understand Starbucks will not retaliate against me if I act concertedly or cooperate with others to challenge this Agreement.

Except as otherwise indicated above, this Agreement shall be enforceable under and subject to the Federal Arbitration Act, 9 U.S.C. Sections 1 et. seq.

Right to Representation. Both Starbucks and I shall have the right to be represented by an attorney in arbitration. Each side will pay its own attorneys' fees and costs, unless the Arbitrator rules otherwise consistent with applicable law.

How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
Starbucks Coffee Company
2401 Utah Avenue South, S-LA 1
Seattle, Washington 98134

v20200101

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

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- d. **Discovery of Evidence.**
 - (i) Each party shall be entitled to 25 interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure ("FRCP").
 - (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP.
 - (iii) Each party shall be entitled a maximum of two eight-hour days of depositions of witnesses, not including experts, in a form consistent with Rule 30 of the FRCP.

Each party shall be entitled to one expert deposition, if necessary, in a form consistent with Rules 26 and 30 of the FRCP.
- e. **Arbitrator's Authority.**
 - (i) The Arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling law and this Agreement. Except as otherwise provided in this Agreement, the Arbitrator shall apply, and shall not deviate from, the substantive law of the state in which the claim(s) arose and/or federal law, as applicable.
 - (ii) The Arbitrator shall have the authority to issue an award or partial award on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact, consistent with Rules 12 and 56 of the FRCP.
 - (iii) The Arbitrator shall decide all disputes related to discovery and may allow additional discovery upon a showing of substantial need by either party or upon a showing of an inability to pursue or defend certain claims. However, consistent with the above prohibition on class, collective, and representative actions, the Arbitrator shall not have authority to order discovery related to any purported class, collective, or representative action.
 - (iv) The Arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The Arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the Arbitrator shall not have the authority to order any remedy that a court would not be authorized to order.
 - (v) The Arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration. Therefore, no decision by any Arbitrator shall serve as precedent in other arbitrations, except in a dispute between Starbucks and me to preclude the same claim from being re-arbitrated.
- f. **Outcome.** No later than 30 days from the date the arbitration hearing concludes, the Arbitrator must issue an award in writing, setting forth in summary form the factual and legal basis for the Arbitrator's determination.

Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision.

ACKNOWLEDGEMENT

Mya Ourada

Signed by

8/16/21

Date

IP Address: 45.21.28.78

Exhibit G

Name	Date Assigned	Due Date	Status	Assignees
HIRE (check 2)	Nov 4, 2021	Nov 4, 2021	Completed	
Arbitration (Start)	Nov 7, 2021	Nov 7, 2021	Completed	
Arbitration Agreement Retail	Nov 7, 2021	Nov 8, 2021	Completed	Braden Terrill
PDF Arbitration Agreement - no action required	Nov 7, 2021	Jan 16, 2022	Terminated	System Owner
Arbitration (End)	Nov 7, 2021	Nov 7, 2021	Completed	
Arbitration Confirmation Email	Nov 7, 2021	Nov 8, 2021	Completed	System Owner
Arbitration (route)			Not Started	
Arbitration (bypass)			Not Started	
Arbitration Agreement NonRetail			Not Started	
EEO Self ID (Start)	Nov 7, 2021	Nov 7, 2021	Completed	
EEO Self ID	Nov 7, 2021	Nov 8, 2021	Completed	Braden Terrill
EEO Self ID (End)	Nov 11, 2021	Nov 11, 2021	Completed	
EEO Self ID (Bypass)			Not Started	
EEO Visual ID (Start)	Nov 11, 2021	Nov 11, 2021	Completed	
EEO Visual ID (Route)	Nov 11, 2021	Nov 11, 2021	Completed	

PLEASE READ THE FOLLOWING CAREFULLY**CONSENT TO RECEIVE, REVIEW, ACCESS, SIGN, & AUTHENTICATE CERTAIN DOCUMENTS, FORMS, LETTERS, & OTHER INFORMATION ELECTRONICALLY**
("E-Signature Consent")

By entering your full name in the text field below, you are agreeing to electronically access, receive, review, sign, and authenticate certain documents, forms, and/or letters ("Materials") covered by the federal Electronic Signatures in Global and National Commerce Act ("E-SIGN"), various state electronic transactions acts ("ETAs"), and/or the separate state laws of Illinois, New York, and Washington, including but not limited to an offer letter; I-9 form; wage statement; and any other employment-related documents.

This E-Signature Consent applies to all Materials, both current and future, related to your employment with Starbucks Corporation.

By entering your full name in the text field below, you are agreeing that your electronic signature is the equivalent of your handwritten (or wet) signature, with all the same legal and binding effect. In certain cases throughout your employment, you may be asked to click buttons labeled "I Agree," "I Acknowledge," or using similar words, or otherwise electronically to acknowledge, accept, or review Materials. This E-Signature Consent applies to those instances as well. You also understand that, in its sole discretion, Starbucks Corporation may mail, hand-deliver, communicate, or otherwise send you hard-copy Materials.

You may obtain a paper copy of any electronic Materials, including ones already or to be accessed, received, reviewed, and/or signed electronically, by sending a written request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134. You will be charged a reasonable fee to cover the costs of providing a paper copy.

You may withdraw your consent to receive, review, access, sign, and authenticate any additional electronic Materials at any time by canceling this E-Signature Consent. You may cancel this E-Signature Consent and withdraw your consent now by not completing this E-Signature Consent form and exiting the system. You may cancel this E-Signature Consent and withdraw your consent in the future by sending a written cancellation request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134 or http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". Any withdrawal of your consent will be effective after a reasonable period of time in order for Starbucks Corporation to process your withdrawal. Withdrawal of your consent will have no legal effect on the validity, effectiveness, or enforceability of (a) any authorization, consent, or e-signature provided by you prior to the effective date of your withdrawal or (b) any document, form, letter, etc. that was provided or made available to you in electronic format prior to the effective date of your withdrawal. Withdrawal of your consent (i.e., canceling this E-Signature Consent) also will not relieve you from the obligation to complete all required Materials. Withdrawal/canceling will require you to receive, review, access, sign, and authenticate these Materials in hard copy instead of electronically. Receiving, reviewing, accessing, signing, and authenticating certain Materials in either electronic or hard copy is a condition of initial and/or continued employment.

You must update Starbucks Corporation regarding the information necessary to contact you electronically (including your personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". If you are employed, Starbucks Corporation may electronically send Materials to your company email address or your personal email address, in its discretion.

To access these electronic Materials, you must have (a) a personal computer or mobile device and an operating system capable of receiving, accessing, displaying, and either printing or storing information, (b) an Internet connection, and (c) Internet Browser Software such as Internet Explorer®, Google Chrome®, Safari®, or Firefox®. Your Internet Browser Software must support 128-bit encryption and

Secure Sockets Layer (SSL) protocol. If you are able to see this E-Signature Consent, your hardware and software should allow you to access these electronic Materials.

To retain any of these electronic Materials, you may either print or download them. To print these Materials on your computer, you will need a printer connected to your computer with adequate paper. To download these Materials on your computer, you will need an available storage medium, like a hard drive on your computer or a removable thumb drive. To print these Materials on your mobile device, you will need a printer linked with your device (e.g., via Wi-Fi, Bluetooth®, etc.) and/or an application (app) that allows for printing. To store these Materials on your mobile device you will need (1) sufficient storage space on your mobile device and (2) an app or function that allows for the capture of electronic data (e.g., a screenshot). Please follow the instructions for your particular computer operating system and/or software to print and/or to download these Materials. Each individual screen may need to be printed and/or downloaded separately. If you have trouble printing and/or downloading, please contact the manufacturer of your personal computer or mobile device, computer operating system, web browser, app, or other relevant software or another information source of your choosing.

By providing my signature, I understand that I am:

- Confirming that I can access this E-Signature Consent.
- Confirming that I have an email address and that the computer I intend to use to access documents electronically has the hardware and software requirements described in this E-Signature Consent, to access and to retain these electronic Materials.
- Agreeing to electronically access, receive, review, sign, and authenticate Materials related in any way to my employment with Starbucks Corporation, in place of hard copy/paper documents and handwritten signatures.
- Confirming that I understand how to cancel this E-Signature Consent, should I ever want to do so.
- Consenting to update Starbucks Corporation regarding the information necessary to contact me electronically (including my personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing at http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/".
- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Braden Terrill

Signature: Braden Terrill

Date: 11/4/21 . Partner Number: 32109947

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

Except as provided below, Starbucks and I agree that the Arbitrator - and not a court or agency - shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

At Will Employment Unchanged by this Agreement. Nothing in this Agreement changes or in any manner modifies my employment-at-will relationship with Starbucks. This Agreement shall remain in effect even after the termination of my employment with Starbucks.

Claims Not Covered by this Agreement. Claims excluded from this Agreement are: (a) claims for workers' compensation, unemployment, or other benefits under a plan or program that provides its own process for dispute resolution; (b) claims for which this Agreement would be invalid as a matter of law; (c) actions to enforce this Agreement, compel arbitration, or enforce or vacate an arbitrator's award under this Agreement; (d) claims asserted on my behalf by another individual if that claim was the subject of a motion to certify a class or collective action and that motion was filed before I entered into this Agreement; and (e) a claim or charge filed with a federal, state, or local administrative agency such as the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, Department of Fair Employment and Housing, the California Labor Commissioner, or other similar agency, though I am giving up the opportunity to recover monetary amounts from any such governmental agency related claim and instead am able to pursue a claim for monetary amounts through arbitration under this Agreement.

I understand that under the National Labor Relations Act I may be entitled to act concertedly or cooperate with others to challenge this Agreement in any forum. I understand Starbucks will not retaliate against me if I act concertedly or cooperate with others to challenge this Agreement.

Except as otherwise indicated above, this Agreement shall be enforceable under and subject to the Federal Arbitration Act, 9 U.S.C. Sections 1 et. seq.

Right to Representation. Both Starbucks and I shall have the right to be represented by an attorney in arbitration. Each side will pay its own attorneys' fees and costs, unless the Arbitrator rules otherwise consistent with applicable law.

How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
Starbucks Coffee Company
2401 Utah Avenue South, S-LA 1
Seattle, Washington 98134

v20200101

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

- a. **Costs.** Starbucks will pay the Arbitrator's fees and the arbitration filing and administrative fees, less my initial payment for the applicable filing fee.
- b. **Location.** The arbitration shall take place at a mutually-convenient location in the state where I work (or most recently worked) for Starbucks.
- c. **Selecting the Arbitrator.** The parties shall confer and attempt to mutually agree on an Arbitrator. If the parties cannot agree, the parties shall contact AAA and request that AAA provide the parties a list of nine arbitrators. The parties shall confer in person or by telephone and select the Arbitrator who will hear the Covered Claim from this list. The party demanding arbitration shall strike a name first, and then the responding party, alternating strikes until only one name remains, who shall be the selected Arbitrator unless he or she is unavailable or otherwise unable to serve.
- d. **Discovery of Evidence.**
 - (i) Each party shall be entitled to 25 interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure ("FRCP").
 - (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP.
 - (iii) Each party shall be entitled a maximum of two eight-hour days of depositions of witnesses, not including experts, in a form consistent with Rule 30 of the FRCP.

Each party shall be entitled to one expert deposition, if necessary, in a form consistent with Rules 26 and 30 of the FRCP.
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 - (i) The Arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling law and this Agreement. Except as otherwise provided in this Agreement, the Arbitrator shall apply, and shall not deviate from, the substantive law of the state in which the claim(s) arose and/or federal law, as applicable.
 - (ii) The Arbitrator shall have the authority to issue an award or partial award on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact, consistent with Rules 12 and 56 of the FRCP.
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 - (iv) The Arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The Arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the Arbitrator shall not have the authority to order any remedy that a court would not be authorized to order.
 - (v) The Arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration. Therefore, no decision by any Arbitrator shall serve as precedent in other arbitrations, except in a dispute between Starbucks and me to preclude the same claim from being re-arbitrated.
- f. **Outcome.** No later than 30 days from the date the arbitration hearing concludes, the Arbitrator must issue an award in writing, setting forth in summary form the factual and legal basis for the Arbitrator's determination.

Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision.

ACKNOWLEDGEMENT

Braden Terrill

11/7/21

Signed by

Date

IP Address: 174.216.0.18

Exhibit H

Name	Date Assigned	Due Date	Status	Assignees
Arbitration (Start)	Jun 4, 2019	Jun 4, 2019	Completed	
Arbitration Agreement (Retail)	Jun 4, 2019	Jun 5, 2019	Completed	Aneil Brian Tripathi
PDF Arbitration Agreement - no action required	Jun 4, 2019	Aug 13, 2019	Terminated	System Owner
Arbitration (End)	Jun 4, 2019	Jun 4, 2019	Completed	
Arbitration Confirmation (Email)	Jun 4, 2019	Jun 5, 2019	Completed	Aneil Brian Tripathi
Notice (Start)	Jun 4, 2019	Jun 4, 2019	Completed	

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By entering your full name in the text field below, you are agreeing to electronically access, receive, review, sign, and authenticate certain documents, forms, and/or letters ("Materials") covered by the federal Electronic Signatures in Global and National Commerce Act ("E-SIGN"), various state electronic transactions acts ("ETAs"), and/or the separate state laws of Illinois, New York, and Washington, including but not limited to an offer letter; I-9 form; wage statement; and any other employment-related documents.

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You may withdraw your consent to receive, review, access, sign, and authenticate any additional electronic Materials at any time by canceling this E-Signature Consent. You may cancel this E-Signature Consent and withdraw your consent now by not completing this E-Signature Consent form and exiting the system. You may cancel this E-Signature Consent and withdraw your consent in the future by sending a written cancellation request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134 or http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". Any withdrawal of your consent will be effective after a reasonable period of time in order for Starbucks Corporation to process your withdrawal. Withdrawal of your consent will have no legal effect on the validity, effectiveness, or enforceability of (a) any authorization, consent, or e-signature provided by you prior to the effective date of your withdrawal or (b) any document, form, letter, etc. that was provided or made available to you in electronic format prior to the effective date of your withdrawal. Withdrawal of your consent (i.e., canceling this E-Signature Consent) also will not relieve you from the obligation to complete all required Materials. Withdrawal/canceling will require you to receive, review, access, sign, and authenticate these Materials in hard copy instead of electronically. Receiving, reviewing, accessing, signing, and authenticating certain Materials in either electronic or hard copy is a condition of initial and/or continued employment.

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To access these electronic Materials, you must have (a) a personal computer or mobile device and an operating system capable of receiving, accessing, displaying, and either printing or storing information, (b) an Internet connection, and (c) Internet Browser Software such as Internet Explorer®, Google Chrome®, Safari®, or Firefox®. Your Internet Browser Software must support 128-bit encryption and

Secure Sockets Layer (SSL) protocol. If you are able to see this E-Signature Consent, your hardware and software should allow you to access these electronic Materials.

To retain any of these electronic Materials, you may either print or download them. To print these Materials on your computer, you will need a printer connected to your computer with adequate paper. To download these Materials on your computer, you will need an available storage medium, like a hard drive on your computer or a removable thumb drive. To print these Materials on your mobile device, you will need a printer linked with your device (e.g., via Wi-Fi, Bluetooth®, etc.) and/or an application (app) that allows for printing. To store these Materials on your mobile device you will need (1) sufficient storage space on your mobile device and (2) an app or function that allows for the capture of electronic data (e.g., a screenshot). Please follow the instructions for your particular computer operating system and/or software to print and/or to download these Materials. Each individual screen may need to be printed and/or downloaded separately. If you have trouble printing and/or downloading, please contact the manufacturer of your personal computer or mobile device, computer operating system, web browser, app, or other relevant software or another information source of your choosing.

By providing my signature, I understand that I am:

- Confirming that I can access this E-Signature Consent.
- Confirming that I have an email address and that the computer I intend to use to access documents electronically has the hardware and software requirements described in this E-Signature Consent, to access and to retain these electronic Materials.
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- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Aneil Tripathi

Signature: Aneil Tripathi

Date: 5/14/19 Partner Number: 02708655

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

Except as provided below, Starbucks and I agree that the Arbitrator – and not a court or agency – shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

At Will Employment Unchanged by this Agreement. Nothing in this Agreement changes or in any manner modifies my employment-at-will relationship with Starbucks. This Agreement shall remain in effect even after the termination of my employment with Starbucks.

Claims Not Covered by this Agreement. Claims excluded from this Agreement are: (a) claims for workers' compensation, unemployment, or other benefits under a plan or program that provides its own process for dispute resolution; (b) claims for which this Agreement would be invalid as a matter of law; (c) actions to enforce this Agreement, compel arbitration, or enforce or vacate an arbitrator's award under this Agreement; (d) claims asserted on my behalf by another individual if that claim was the subject of a motion to certify a class or collective action and that motion was filed before I entered into this Agreement; and (e) a claim or charge filed with a federal, state, or local administrative agency such as the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, or similar agency, though I am giving up the opportunity to recover monetary amounts from any such governmental agency related claim and instead am able to pursue a claim for monetary amounts through arbitration under this Agreement.

I understand that under the National Labor Relations Act I may be entitled to act concertedly or cooperate with others to challenge this Agreement in any forum. I understand Starbucks will not retaliate against me if I act concertedly or cooperate with others to challenge this Agreement.

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How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
Starbucks Coffee Company
2401 Utah Avenue South, S-LA 1
Seattle, Washington 98134

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and www.law.cornell.edu/rules/frcp/rule_68, respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

- a. **Costs.** Starbucks will pay the Arbitrator's fees and the arbitration filing and administrative fees, less my initial payment for the applicable filing fee.
- b. **Location.** The arbitration shall take place at a mutually-convenient location in the state where I work (or most recently worked) for Starbucks.
- c. **Selecting the Arbitrator.** The parties shall confer and attempt to mutually agree on an Arbitrator. If the parties cannot agree, the parties shall contact AAA and request that AAA provide the parties a list of nine arbitrators. The parties shall confer in person or by telephone and select the Arbitrator who will hear the Covered Claim from this list. The party demanding arbitration shall strike a name first, and then the responding party, alternating strikes until only one name remains, who shall be the selected Arbitrator unless he or she is unavailable or otherwise unable to serve.
- d. **Discovery of Evidence.**
 - (i) Each party shall be entitled to three interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure ("FRCP").
 - (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP.
 - (iii) Each party shall be entitled a maximum of two eight-hour days of depositions of witnesses in a form consistent with Rule 30 of the FRCP.
- e. **Arbitrator's Authority.**
 - (i) The Arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling law and this Agreement. Except as otherwise provided in this Agreement, the Arbitrator shall apply, and shall not deviate from, the substantive law of the state in which the claim(s) arose and/or federal law, as applicable.
 - (ii) The Arbitrator shall have the authority to issue an award or partial award on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact, consistent with Rules 12 and 56 of the FRCP.
 - (iii) The Arbitrator shall decide all disputes related to discovery and may allow additional discovery upon a showing of substantial need by either party or upon a showing of an inability to pursue or defend certain claims. However, consistent with the above prohibition on class, collective, and representative actions, the Arbitrator shall not have authority to order discovery related to any purported class, collective, or representative action.
 - (iv) The Arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The Arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the Arbitrator shall not have the authority to order any remedy that a court would not be authorized to order.
 - (v) The Arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration. Therefore, no decision by any Arbitrator shall serve as precedent in other arbitrations, except in a dispute between Starbucks and me to preclude the same claim from being re-arbitrated.
- f. **Outcome.** No later than 30 days from the date the arbitration hearing concludes, the Arbitrator must issue an award in writing, setting forth in summary form the factual and legal basis for the Arbitrator's determination.

Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision. Should a court or arbitrator determine that arbitration is unavailable for any reason, the parties agree and stipulate that they hereby waive any right to a jury and instead agree and stipulate that the claim(s) at issue will be heard only by a judge.

ACKNOWLEDGEMENT

Aneil Tripathi

6/4/19

Signed by

Date

IP Address: 98.25.5.226

**STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON**

Plaintiffs: Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada, Braden Terrill, and Aneil Tripathi
Defendants: Starbucks Corporation and Melissa Morris
Case No.: 2022-CP-04-02159

Exhibit B

PLEASE READ THE FOLLOWING CAREFULLY**CONSENT TO RECEIVE, REVIEW, ACCESS, SIGN, & AUTHENTICATE CERTAIN DOCUMENTS, FORMS, LETTERS, & OTHER INFORMATION ELECTRONICALLY**
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- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Skylar Blume

Signature: Skylar Blume

Date: 4/7/20 Partner Number: 02889375

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- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Maisie Dowis

Signature: Maisie Dowis

Date: 4/19/19 Partner Number: 02674415

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- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Rhiannon Greer

Signature: Rhiannon Greer

Date: 10/4/21 Partner Number: 32089621

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Print Name: Jonathan Hudson

Signature: Jonathan Hudson

Date: 2/21/18 Partner Number: 02484465

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Print Name: Natalie Mann

Signature: Natalie Mann

Date: 5/24/19 Partner Number: 02716510

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You may obtain a paper copy of any electronic Materials, including ones already or to be accessed, received, reviewed, and/or signed electronically, by sending a written request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134. You will be charged a reasonable fee to cover the costs of providing a paper copy.

You may withdraw your consent to receive, review, access, sign, and authenticate any additional electronic Materials at any time by canceling this E-Signature Consent. You may cancel this E-Signature Consent and withdraw your consent now by not completing this E-Signature Consent form and exiting the system. You may cancel this E-Signature Consent and withdraw your consent in the future by sending a written cancellation request to Starbucks Corporation at 2401 Utah Avenue South, Seattle, Washington 98134 or http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". Any withdrawal of your consent will be effective after a reasonable period of time in order for Starbucks Corporation to process your withdrawal. Withdrawal of your consent will have no legal effect on the validity, effectiveness, or enforceability of (a) any authorization, consent, or e-signature provided by you prior to the effective date of your withdrawal or (b) any document, form, letter, etc. that was provided or made available to you in electronic format prior to the effective date of your withdrawal. Withdrawal of your consent (i.e., canceling this E-Signature Consent) also will not relieve you from the obligation to complete all required Materials. Withdrawal/canceling will require you to receive, review, access, sign, and authenticate these Materials in hard copy instead of electronically. Receiving, reviewing, accessing, signing, and authenticating certain Materials in either electronic or hard copy is a condition of initial and/or continued employment.

You must update Starbucks Corporation regarding the information necessary to contact you electronically (including your personal email address) by calling Starbucks Corporation at 800-782-7282 or emailing http://customerservice.starbucks.com/app/contact/ask_company_info **HYPERLINK** "http://customerservice.starbucks.com/app/contact/ask_company_info/". If you are employed, Starbucks Corporation may electronically send Materials to your company email address or your personal email address, in its discretion.

To access these electronic Materials, you must have (a) a personal computer or mobile device and an operating system capable of receiving, accessing, displaying, and either printing or storing information, (b) an Internet connection, and (c) Internet Browser Software such as Internet Explorer®, Google Chrome®, Safari®, or Firefox®. Your Internet Browser Software must support 128-bit encryption and

Secure Sockets Layer (SSL) protocol. If you are able to see this E-Signature Consent, your hardware and software should allow you to access these electronic Materials.

To retain any of these electronic Materials, you may either print or download them. To print these Materials on your computer, you will need a printer connected to your computer with adequate paper. To download these Materials on your computer, you will need an available storage medium, like a hard drive on your computer or a removable thumb drive. To print these Materials on your mobile device, you will need a printer linked with your device (e.g., via Wi-Fi, Bluetooth®, etc.) and/or an application (app) that allows for printing. To store these Materials on your mobile device you will need (1) sufficient storage space on your mobile device and (2) an app or function that allows for the capture of electronic data (e.g., a screenshot). Please follow the instructions for your particular computer operating system and/or software to print and/or to download these Materials. Each individual screen may need to be printed and/or downloaded separately. If you have trouble printing and/or downloading, please contact the manufacturer of your personal computer or mobile device, computer operating system, web browser, app, or other relevant software or another information source of your choosing.

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- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Mya Ourada

Signature: Mya Ourada

Date: 8/13/21 Partner Number: 32059375

PLEASE READ THE FOLLOWING CAREFULLY**CONSENT TO RECEIVE, REVIEW, ACCESS, SIGN, & AUTHENTICATE CERTAIN DOCUMENTS, FORMS, LETTERS, & OTHER INFORMATION ELECTRONICALLY**
("E-Signature Consent")

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- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Braden Terrill

Signature: Braden Terrill

Date: 11/4/21 . Partner Number: 32109947

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- Agreeing that I have read, understand, and agree to all statements, agreements, and acknowledgements in this E-Signature Consent.

Print Name: Aneil Tripathi

Signature: Aneil Tripathi

Date: 5/14/19 Partner Number: 02708655

**STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON**

Plaintiffs: Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada, Braden Terrill, and Aneil Tripathi
Defendants: Starbucks Corporation and Melissa Morris
Case No.: 2022-CP-04-02159

Exhibit C

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

Except as provided below, Starbucks and I agree that the Arbitrator - and not a court or agency - shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

At Will Employment Unchanged by this Agreement. Nothing in this Agreement changes or in any manner modifies my employment-at-will relationship with Starbucks. This Agreement shall remain in effect even after the termination of my employment with Starbucks.

Claims Not Covered by this Agreement. Claims excluded from this Agreement are: (a) claims for workers' compensation, unemployment, or other benefits under a plan or program that provides its own process for dispute resolution; (b) claims for which this Agreement would be invalid as a matter of law; (c) actions to enforce this Agreement, compel arbitration, or enforce or vacate an arbitrator's award under this Agreement; (d) claims asserted on my behalf by another individual if that claim was the subject of a motion to certify a class or collective action and that motion was filed before I entered into this Agreement; and (e) a claim or charge filed with a federal, state, or local administrative agency such as the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, Department of Fair Employment and Housing, the California Labor Commissioner, or other similar agency, though I am giving up the opportunity to recover monetary amounts from any such governmental agency related claim and instead am able to pursue a claim for monetary amounts through arbitration under this Agreement.

I understand that under the National Labor Relations Act I may be entitled to act concertedly or cooperate with others to challenge this Agreement in any forum. I understand Starbucks will not retaliate against me if I act concertedly or cooperate with others to challenge this Agreement.

Except as otherwise indicated above, this Agreement shall be enforceable under and subject to the Federal Arbitration Act, 9 U.S.C. Sections 1 et. seq.

Right to Representation. Both Starbucks and I shall have the right to be represented by an attorney in arbitration. Each side will pay its own attorneys' fees and costs, unless the Arbitrator rules otherwise consistent with applicable law.

How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
Starbucks Coffee Company
2401 Utah Avenue South, S-LA 1
Seattle, Washington 98134

v20200101

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

- a. **Costs.** Starbucks will pay the Arbitrator's fees and the arbitration filing and administrative fees, less my initial payment for the applicable filing fee.
- b. **Location.** The arbitration shall take place at a mutually-convenient location in the state where I work (or most recently worked) for Starbucks.
- c. **Selecting the Arbitrator.** The parties shall confer and attempt to mutually agree on an Arbitrator. If the parties cannot agree, the parties shall contact AAA and request that AAA provide the parties a list of nine arbitrators. The parties shall confer in person or by telephone and select the Arbitrator who will hear the Covered Claim from this list. The party demanding arbitration shall strike a name first, and then the responding party, alternating strikes until only one name remains, who shall be the selected Arbitrator unless he or she is unavailable or otherwise unable to serve.
- d. **Discovery of Evidence.**
 - (i) Each party shall be entitled to 25 interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure ("FRCP").
 - (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP.
 - (iii) Each party shall be entitled a maximum of two eight-hour days of depositions of witnesses, not including experts, in a form consistent with Rule 30 of the FRCP.

Each party shall be entitled to one expert deposition, if necessary, in a form consistent with Rules 26 and 30 of the FRCP.
- e. **Arbitrator's Authority.**
 - (i) The Arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling law and this Agreement. Except as otherwise provided in this Agreement, the Arbitrator shall apply, and shall not deviate from, the substantive law of the state in which the claim(s) arose and/or federal law, as applicable.
 - (ii) The Arbitrator shall have the authority to issue an award or partial award on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact, consistent with Rules 12 and 56 of the FRCP.
 - (iii) The Arbitrator shall decide all disputes related to discovery and may allow additional discovery upon a showing of substantial need by either party or upon a showing of an inability to pursue or defend certain claims. However, consistent with the above prohibition on class, collective, and representative actions, the Arbitrator shall not have authority to order discovery related to any purported class, collective, or representative action.
 - (iv) The Arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The Arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the Arbitrator shall not have the authority to order any remedy that a court would not be authorized to order.
 - (v) The Arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration. Therefore, no decision by any Arbitrator shall serve as precedent in other arbitrations, except in a dispute between Starbucks and me to preclude the same claim from being re-arbitrated.
- f. **Outcome.** No later than 30 days from the date the arbitration hearing concludes, the Arbitrator must issue an award in writing, setting forth in summary form the factual and legal basis for the Arbitrator's determination.

Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision.

ACKNOWLEDGEMENT

Skylar Blume

Signed by

4/7/20

Date

IP Address: 97.82.204.190

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

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Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

At Will Employment Unchanged by this Agreement. Nothing in this Agreement changes or in any manner modifies my employment-at-will relationship with Starbucks. This Agreement shall remain in effect even after the termination of my employment with Starbucks.

Claims Not Covered by this Agreement. Claims excluded from this Agreement are: (a) claims for workers' compensation, unemployment, or other benefits under a plan or program that provides its own process for dispute resolution; (b) claims for which this Agreement would be invalid as a matter of law; (c) actions to enforce this Agreement, compel arbitration, or enforce or vacate an arbitrator's award under this Agreement; (d) claims asserted on my behalf by another individual if that claim was the subject of a motion to certify a class or collective action and that motion was filed before I entered into this Agreement; and (e) a claim or charge filed with a federal, state, or local administrative agency such as the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, or similar agency, though I am giving up the opportunity to recover monetary amounts from any such governmental agency related claim and instead am able to pursue a claim for monetary amounts through arbitration under this Agreement.

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ACKNOWLEDGEMENT

Maisie Dowis

4/20/19

Signed by

Date

IP Address: 24.216.34.19

STARBUCKS MUTUAL ARBITRATION AGREEMENT

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v20200101

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ACKNOWLEDGEMENT

Rhiannon Greer

10/4/21

Signed by

Date

IP Address: 24.178.148.3

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ACKNOWLEDGEMENT

Jonathan Hudson

2/21/18

Signed by

Date

IP Address: 98.99.251.252

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ACKNOWLEDGEMENT

Natalie Mann

5/27/19

Signed by

Date

IP Address: 99.85.126.213

ELECTRONICALLY FILED - 2023 Apr 07 12:58 PM - ANDERSON - COMMON PLEAS - CASE#2022CP0402159

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 - (ii) The Arbitrator shall have the authority to issue an award or partial award on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact, consistent with Rules 12 and 56 of the FRCP.
 - (iii) The Arbitrator shall decide all disputes related to discovery and may allow additional discovery upon a showing of substantial need by either party or upon a showing of an inability to pursue or defend certain claims. However, consistent with the above prohibition on class, collective, and representative actions, the Arbitrator shall not have authority to order discovery related to any purported class, collective, or representative action.
 - (iv) The Arbitrator shall have the same authority to order remedies (e.g., emotional distress damages, punitive damages, equitable relief, etc.) as would a court of competent jurisdiction. The Arbitrator shall not have the authority to hear disputes not recognized by existing law and shall dismiss such claims upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the Arbitrator shall not have the authority to order any remedy that a court would not be authorized to order.
 - (v) The Arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration. Therefore, no decision by any Arbitrator shall serve as precedent in other arbitrations, except in a dispute between Starbucks and me to preclude the same claim from being re-arbitrated.
- f. **Outcome.** No later than 30 days from the date the arbitration hearing concludes, the Arbitrator must issue an award in writing, setting forth in summary form the factual and legal basis for the Arbitrator's determination.

Savings Clause & Conformity Clause. If any provision of this Agreement is determined to be unenforceable or in conflict with a mandatory provision of applicable law, the unenforceable or conflicting provision shall be automatically severed and the remainder of this Agreement shall not be affected except it shall be construed to incorporate any mandatory provision.

ACKNOWLEDGEMENT

Mya Ourada

Signed by

8/16/21

Date

IP Address: 45.21.28.78

STARBUCKS MUTUAL ARBITRATION AGREEMENT

Mutual Agreement to Arbitrate. Starbucks and I agree to use binding individual arbitration to resolve any "Covered Claims" that arise between me and Starbucks, its subsidiaries and related companies, and/or any current or former employee of Starbucks or a related company (collectively, "Starbucks"). "Covered Claims" are those brought under any statute, local ordinance, or common law relating to my employment, including those concerning any element of compensation, harassment, discrimination, retaliation, recovery of bonus or relocation benefits, leaves of absence, accommodations, or termination of employment.

Except as provided herein, I understand and agree that arbitration is the only forum for resolving Covered Claims, and that both Starbucks and I waive the right to a trial before a judge or jury in federal or state court. The Arbitrator shall have the authority to award the same damages and other relief that would have been available in court pursuant to applicable law.

Except as provided below, Starbucks and I agree that the Arbitrator - and not a court or agency - shall have exclusive authority to resolve any dispute regarding the formation, interpretation, applicability, enforceability, or implementation of this Agreement, including any claim that all or part of this Agreement is void or voidable.

Waiver of Class, Collective, Consolidated, or Representative Claims. I agree that Covered Claims will be arbitrated only on an individual basis, and I waive the right to participate in or receive money or any other relief from any class, collective, consolidated, or representative proceeding. No party may bring a claim on behalf of other individuals, and any Arbitrator hearing my claim may not combine more than one individual's claim or claims into a single case, or arbitrate any form of a class, collective, consolidated, or representative proceeding.

Any question or dispute concerning the scope or validity of the above paragraph shall be decided by a court of competent jurisdiction and not the Arbitrator. Should a court determine that the above paragraph is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, consolidated, or representative action and instead agree and stipulate that such claims will be heard only by a judge.

At Will Employment Unchanged by this Agreement. Nothing in this Agreement changes or in any manner modifies my employment-at-will relationship with Starbucks. This Agreement shall remain in effect even after the termination of my employment with Starbucks.

Claims Not Covered by this Agreement. Claims excluded from this Agreement are: (a) claims for workers' compensation, unemployment, or other benefits under a plan or program that provides its own process for dispute resolution; (b) claims for which this Agreement would be invalid as a matter of law; (c) actions to enforce this Agreement, compel arbitration, or enforce or vacate an arbitrator's award under this Agreement; (d) claims asserted on my behalf by another individual if that claim was the subject of a motion to certify a class or collective action and that motion was filed before I entered into this Agreement; and (e) a claim or charge filed with a federal, state, or local administrative agency such as the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, Department of Fair Employment and Housing, the California Labor Commissioner, or other similar agency, though I am giving up the opportunity to recover monetary amounts from any such governmental agency related claim and instead am able to pursue a claim for monetary amounts through arbitration under this Agreement.

I understand that under the National Labor Relations Act I may be entitled to act concertedly or cooperate with others to challenge this Agreement in any forum. I understand Starbucks will not retaliate against me if I act concertedly or cooperate with others to challenge this Agreement.

Except as otherwise indicated above, this Agreement shall be enforceable under and subject to the Federal Arbitration Act, 9 U.S.C. Sections 1 et. seq.

Right to Representation. Both Starbucks and I shall have the right to be represented by an attorney in arbitration. Each side will pay its own attorneys' fees and costs, unless the Arbitrator rules otherwise consistent with applicable law.

How to Start the Arbitration Process. Demand for arbitration of a Covered Claim must be made in writing and delivered by hand or first-class mail to the other party within the applicable statute of limitations. Any demand for arbitration made to Starbucks shall be provided to:

Starbucks Arbitration Coordinator
Starbucks Coffee Company
2401 Utah Avenue South, S-LA 1
Seattle, Washington 98134

v20200101

Filing fees. Starbucks will pay its own filing fees. If I initiate the arbitration, I must pay the equivalent to the current filing fee applicable in state court where I reside, up to a maximum of \$225.

Arbitration Process and Procedures. To the maximum extent permitted by law and except as noted herein, the Arbitrator selected by the parties shall administer the arbitration according to the National Rules for the Resolution of Employment Disputes (or successor rules) of the American Arbitration Association ("AAA") and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). These rules can be found at www.adr.org and respectively, or requested from the Company. If AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall govern. These rules are modified by the terms of this Agreement, including the following:

- a. **Costs.** Starbucks will pay the Arbitrator's fees and the arbitration filing and administrative fees, less my initial payment for the applicable filing fee.
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 - (i) Each party shall be entitled to 25 interrogatories in a form consistent with Rule 33 of the Federal Rules of Civil Procedure ("FRCP").
 - (ii) Each party shall be entitled to only 25 requests for production of documents in a form consistent with Rule 34 of the FRCP.
 - (iii) Each party shall be entitled a maximum of two eight-hour days of depositions of witnesses, not including experts, in a form consistent with Rule 30 of the FRCP.

Each party shall be entitled to one expert deposition, if necessary, in a form consistent with Rules 26 and 30 of the FRCP.
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ACKNOWLEDGEMENT

Braden Terrill

11/7/21

Signed by

Date

IP Address: 174.216.0.18

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ACKNOWLEDGEMENT

Aneil Tripathi

6/4/19

Signed by

Date

IP Address: 98.25.5.226

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	FOR THE TENTH JUDICIAL CIRCUIT
	)	
Skylar Blume, Virgil Dowis, Rhi Greer,	)	Civil Action No. 2022-CP-04-02159
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, and Aneil Tripathi,	)	
	)	
Plaintiffs,	)	DEFENDANT STARBUCKS
	)	CORPORATION'S MOTION TO
vs.	)	DISMISS OR, IN THE
	)	ALTERNATIVE, COMPEL
	)	ARBITRATION
Starbucks Corporation and Melissa Morris,	)	
	)	
Defendants.	)	

COMES NOW Defendant Starbucks Corporation ("Starbucks") and hereby moves this Court to dismiss or, in the alternative, stay proceedings and compel arbitration pursuant to the Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 3–4.

This Motion is based on the Plaintiffs' Complaint; the arbitration provisions in the Starbucks Mutual Arbitration Agreement which Plaintiffs executed as part of their employment with Starbucks, a Memorandum of Law to be filed with this Court, and applicable common and statutory laws.

WHEREFORE, Starbucks respectfully requests that the Court issue an Order dismissing Plaintiffs' claims with prejudice or, in the alternative, to stay this action and compel arbitration.

Respectfully submitted, this 7th day of April, 2023.

LITTLER MENDELSON, P.C.

By: /s/ William H. Foster

William H. Foster

SC Bar No. 66221

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Attorneys for Defendant Starbucks Corporation

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	
Skylar Blume, Virgil Dowis, Rhi Greer,	)	Case No. 2022-CP-04-02159
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, and Aneil Tripathi,	)	
	)	
Plaintiffs,	)	DEFENDANT STARBUCKS
	)	CORPORATION'S MEMORANDUM IN
vs.	)	SUPPORT OF MOTION TO DISMISS
	)	
Starbucks Corporation and Melissa Morris,	)	
	)	
Defendants	)	
	)	

Defendant Starbucks Corporation ("Starbucks") hereby submits this Memorandum in Support of its Motion to Dismiss Plaintiffs' Complaint. For the reasons stated herein, Defendant respectfully moves this Court for an order dismissing Plaintiffs' Complaint in its entirety.

I. INTRODUCTION

Plaintiffs Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada, Braden Terrill, and Aneil Tripathi ("Plaintiffs"), eight Starbucks employees, allege two causes of action against Defendants Starbucks and Melissa Morris ("Morris"), which include (1) defamation and (2) abuse of process. (*See* Complaint ("Compl.") at ¶¶ 49-63.) Yet, although Plaintiffs frame their claims as state tort actions, Plaintiffs allege conduct by Starbucks that, if accepted as true solely for purposes of this Motion, would constitute unfair labor practices under the National Labor Relations Act ("NLRA"). In situations like these, where plaintiffs allege conduct that, if true, would violate the NLRA, the United States Supreme Court has concluded (and South Carolina courts have recognized) that the NLRA preempts state tort actions under the doctrine of *Garmon* preemption.

The appropriate place for Plaintiffs' claims is not this Court (or any other court) as neither this Court, nor any other court, has jurisdiction over Plaintiffs' claims. Rather, the only judicial body that possess the jurisdiction to adjudicate Plaintiffs' claims is the National Labor Relations Board ("NLRB"). Therefore, this Court lacks jurisdiction over Plaintiffs' claims and must dismiss Plaintiffs' Complaint with prejudice.

II. RELEVANT ALLEGATIONS¹

On August 1, 2022, Plaintiffs and other unionized Starbucks employees approached Morris, encircled her, and demanded changes to the terms and conditions of their employment with Starbucks, including, among others, wage increases. (*Id.* at ¶ 18.) Prior to approaching Morris with their demands, Plaintiffs and the others who confronted Morris planned to video this event.² (*See id.* at ¶¶ 21-23.) In this video, Plaintiffs and others surround Morris, who can be seen in the video talking on the phone, encircle her, block her as she tries to walk away from the group, and chase after her once she gets past this group.³ (*Id.* at ¶¶ 22-23.)

Following these events, Morris contacted the Anderson County Sheriff's Office and reported the events that transpired on August 1, 2022. (*Id.* at ¶ 27.) Starbucks issued a statement

¹ Relevant allegations from Plaintiff's Complaint are taken as true for purposes of this Motion only. Defendants contest these allegations and deny any liability, wrongdoing or fault in this matter, as set forth in their Answer to Plaintiffs' Complaint.

² South Carolina case law is well established that "allowing a trial court to consider documents that are incorporated by reference in the complaint but not actually attached thereto prevents a plaintiff from benefitting from his own oversight or from surviving a motion to dismiss by intentionally omitting documents upon which their claims are based." *Brazell v. Windsor*, 384 S.C. 512, 516, 682 S.E.2d 824, 826 (2009). Plaintiffs rely upon this video and refer to it several times in the Complaint. As such, it is proper for the Court to consider this video for the purposes of this Motion.

³ Starbucks contends that the video that was publicly disseminated depicting these events does not fully or fairly depict the events that transpired on August 1, 2022, including, among others, the statements made by Morris and/or Plaintiffs' efforts to prevent Ms. Morris from leaving the store.

on August 8, 2022, that provides that Morris felt threatened and unsafe during the confrontation on August 1st and had contacted law enforcement about those events. (*Id.* at ¶ 36.) After investigating the events that occurred on August 1, 2022, the Sheriff's Office declined to pursue charges against those individuals named in the police report. (*Id.* at ¶¶ 44-45.)

Importantly, prior to filing this action, Plaintiffs filed a charge with the NLRB on August 8, 2022.⁴ In their charge, Plaintiffs allege that Starbucks *engaged in unfair labor practices*, as defined by Section 8 of the NLRA. (Ex. A.) In support of their allegations in the NLRB charge, Plaintiffs contend that Starbucks engaged in unfair labor practices by (1) suspending/effectively suspending Union leaders and supporters, (2) prohibiting those parties from working at or entering Starbucks locations, and (3) reporting those parties to the police, among others. (*Id.*) Moreover, Plaintiffs allege that Starbucks' actions were "in retaliation for workers' protected concerted activities." (*Id.*)

On October 17, 2022, Plaintiffs filed this action alleging claims for defamation and abuse of process against Starbucks and Defendant Morris. In support of their claims in this action, Plaintiffs allege that Morris defamed them by submitting a police report following the events that took place at the Anderson Starbucks location on August 1, 2022. (Compl. at ¶¶ 27-30, 50-51.) Plaintiffs further allege that Starbucks published a false/defamatory statement on August 8, 2022, regarding the events that took place on August 1, 2022. (Compl. at ¶¶ 31-38, 52.) Plaintiffs further

⁴ A copy of this charge from the NLRB's publicly accessible records is attached hereto as **Exhibit A**. While not attached to the Complaint, the Court may consider this charge because the Complaint fails to affirmatively show that this Court has subject matter jurisdiction over this case. (*See* Compl.) Indeed, the Complaint contains no allegation that that this Court has subject matter jurisdiction over this dispute. (*See id.*) Moreover, the Court may take judicial notice of this charge and Starbucks requests that the Court do the same. SCRE 201; *see also Bowers v. Bowers*, 349 S.C. 85, 561 S.E.2d 610, *rehearing denied, cert. denied* (S.C. App. 2002) (courts may take judicial notice of information that is "readily available from sources of indisputable reliability.").

claim that Starbucks and Morris abused the legal process by filing a police report and did so for the purpose of “preventing Plaintiffs from publicly protesting Starbucks.” (Compl. at ¶¶ 59-62.)

III. LEGAL STANDARDS

A. Motion to Dismiss under Rule 12(b)(1)

A motion to dismiss under Rule 12(b)(1) must be granted whenever the court lacks subject matter jurisdiction. The question of subject matter jurisdiction is a question of law for the court and a motion to dismiss under Rule 12(b)(1) is a challenge of the Court’s power to adjudicate the subject matter of the Complaint. SCRCP 12(b)(1). “[S]ubject matter jurisdiction refers to a court’s constitutional or statutory power to adjudicate a case.” *Johnson v. SC. Dep’t of Prob., Parole, & Pardon Servs.*, 372 S.C. 279, 285, 641 S.E.2d 895, 897 (S.C. 2007). A court must dismiss a complaint for lack of subject matter jurisdiction under SCRCP 12(b)(1) when the court lacks the “power to adjudicate [a case].” *Id.*

Where a complaint does not affirmatively show that subject matter jurisdiction exists, the Court may consider affidavits or other evidence outside the pleadings establishing a lack of subject matter jurisdiction and may do so without converting the motion to a motion for summary judgment under SCRCP 56. *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (S.C. 1999); *Graham v. Lloyd’s of London*, 296 S.C. 249, 251, 371 S.E.2d 801, 802 n. 1 (S.C. Ct. App. 1988); *Woodard v. Westvaco Corp.*, 315 S.C. 329, 433 S.E.2d 890 (S.C. Ct. App. 1993) (vacated on other grounds by 319 S.C. 240, 460 S.E.2d 392 (S.C. 1995)).

B. The National Labor Relations Act

The NLRA is a federal law that protects employees’ rights to engage in concerted activities and prohibits employers and labor organizations from engaging in unfair labor practices. *See* 29 U.S.C. §§ 157, 158 (2022); *see also Lontz v. Tharp*, 413 F.3d 435, 442 (4th Cir. 2005). The NLRB is the federal administrative agency that enforces the NLRA. *See* 29 U.S.C. § 160(a).

Section 7 of the NLRA protects the rights of employees to engage in concerted activities. An activity is a “concerted activity” if it involves “activities of employees who have joined together in order to achieve common goals.” *NLRB v. City Disposal Sys. Inc.*, 465 U.S. 822, 831, 104 S.Ct. 1505, 1511 (1984); *see also* 29 U.S.C. § 157. Importantly, ***asking for a raise*** on behalf of a group of co-workers constitutes a protected concerted activity. *See NLRB v. Air Contact Transp. Inc.*, 403 F.3d 206, 208 (4th Cir. 2005) (emphasis added); *NLRB v. Waco Insulation, Inc.*, 567 F.2d 596, 599 (4th Cir. 1977); *see also* *Livin’ Spoonful, Inc.*, 361 NLRB 595, 601 (2014). Section 7 of the NLRA further protects the rights of employees to engage in concerted activities publicly. *See e.g., Ohio River Valley Envtl. Coalition, Inc.*, 371 NLRB No. 135, 51-63 (2022); *Kaiser Eng’rs*, 213 NLRB 752, 755 (1974).

Section 8 outlines the conduct that the NLRA prohibits as unfair labor practices. *See* 29 U.S.C. § 158. An employer violates section 8(a)(1) of the NLRA when the employer “***may*** reasonably tend to coerce or intimidate employees” in their exercise of section 7 rights. *See Air Contract Transp. Inc.*, 403 F.3d at 212 (emphasis added). For example, the NLRB “has consistently held that threats to bring legal action against employees for engaging in protected concerted activity violate Section 8(a)(1), in that they reasonably tend to interfere with, restrain, and coerce employees in the exercise of their Section 7 rights.” *See Triple Play Sports Bar & Grille*, 361 NLRB 308, 329 (2014).

C. ***Garmon* Preemption**

The Supreme Court has concluded that the NLRA preempts state law claims “[w]hen an activity is arguably subject to [Sections] 7 or 8 of the [NLRA],” because “the States as well as the federal courts must defer to the exclusive competence of the National Labor Relations Board.” *See San Diego Bldg. Trades Council v. Garmon*, 359 U.S. 236, 245, 79 S.Ct. 773, 780 (1959); *see also* *Chamber of Commerce of U.S. v. Brown*, 554 U.S. 60, 65, 128 S.Ct. 2408, 2412

(2008) (quoting *Golden State Transit Corp. v. City of Los Angeles*, 475 U.S. 608, 613-14, 106 S.Ct. 1395, 1398 (1986)) (noting that *Garmon* preemption applies by “preclud[ing] state interference with the National Labor Relations Board’s interpretation and active enforcement of . . . the NLRA”).

Specifically, “state and federal courts are preempted from considering conduct that is either ‘arguably protected’ or ‘arguably prohibited’ by the NLRA.” See *Alston v. Balt. Gas & Elec. Co.*, No. CV SAG-20-2317, 2020 WL 6684623, at *8 (D. Md. Nov. 12, 2020) (finding plaintiff’s wrongful discharge claim to be preempted where his complaint described his exercise of rights under the NLRA and the retaliatory actions his employer took); see also *Richardson v. Kruchko & Fries*, 966 F.2d 153, 156-57 (4th Cir. 1992) (explaining that “[w]hether state-law claims are preempted under *Garmon* is determined . . . by the issues that those claims require a court to adjudicate”). That a plaintiff labels his claims as tort claims **does not prevent** *Garmon* preemption from applying. See *United Assn. of Journeymen & Apprentices v. Borden*, 373 U.S. 690, 697-98, 83 S.Ct. 1423, 1427 (1963) (emphasis added); see also *Papa v. Truland Sys. Corp.*, 162 F.3d 1155 (4th Cir. 1998). In other words, where “the controversy presented to the state court is identical to that which otherwise would have been presented to the [NLRB],” *Garmon* preemption will apply. See *United Credit Bureau, Inc. v. NLRB*, 643 F.2d 1017, 1025 (4th Cir. 1981).⁵

Because sections 7 and 8 of the NLRA do not create a cause of action, “the Supreme Court has always assumed,” and the Fourth Circuit has expressly held, “that *Garmon* preemption is a matter for state courts to determine.” See *Lontz*, 413 F.3d at 443; see also *Gilman v. Jet Broadband*

⁵ See also *Moreno v. UtiliQuest, LLC*, 29 F.4th 567, 574 (9th Cir. 2022) (noting that courts should conclude that *Garmon* preemption applies when they are unsure and further noting that it is the underlying controversy, and not the title of the claims, that dictates whether *Garmon* preemption applies).

VA, LLC, No. CIV A 7:09-CV-00156, 2009 WL 2032068, at *2-3 (W.D. Va. July 8, 2009) (explaining the state court must initially address *Garmon* preemption claims). Along these lines, South Carolina courts have routinely recognized that the NLRA may preempt state law claims. *See, e.g., Piedmont Shirt Co. v. Amalgamated Clothing Workers of Am., AFL-CIO*, 237 S.C. 13, 15, 115 S.E.2d 499, 499 (S.C. 1960) (dismissing complaint alleging tort claims because the claims were preempted by *Garmon*); *Pike v. Dan River, Inc.*, No. 82-CP-23-2943, 1982 WL 43458, (S.C. Com. Pl. Sept. 22, 1982) (dismissing a claim based upon preemption under *Garmon*); *Wood v. AFGE*, 282 S.C. 406, 408, 318 S.E.2d 568, 570 n.1 (S.C. 1984) (referencing the concept of NLRA preemption); *Scott v. Wackenhut Servs., Inc.*, No. 1:08-3863-MBS-JRM, 2010 WL 1254866, at *3 (D.S.C. Mar. 1, 2010), *report and recommendation adopted*, No. 1:08-3863-MBS-JRM, 2010 WL 1254860 (D.S.C. Mar. 23, 2010) (dismissing complaint that involved unfair labor practices based upon preemption under *Garmon*) ; *Food Lion, Inc. v. United Food & Commercial Workers International Union*, No. CIV.A. 6:93-0582-1AJ, 1993 WL 410024, (D.S.C. July 21, 1993) (dismissing claim for abuse of process because “allegations of unfair labor practices would be a ‘crucial element’ [of] the abuse of process action”).

IV. ARGUMENT

A. ***Garmon* Preemption Compels the Dismissal of Plaintiffs’ Abuse of Process Claim Because Plaintiffs Allege Facts That, if True, Would Describe a Unfair Labor Practice Prohibited by the NLRA**

Here, although Plaintiffs allege an abuse of process claim, the operative facts set forth in Plaintiffs’ Complaint describe an alleged unfair labor practice under the NLRA. Therefore, *Garmon* preemption prevents this Court from exercising jurisdiction over Plaintiffs’ abuse of process claim.

Specifically, Plaintiffs allege that they collectively confronted Morris to obtain higher wages and modify other “terms and conditions” of their employment with Starbucks. (Compl. at ¶

20.) Taking Plaintiffs' allegations as true solely for the purposes of this Motion, Plaintiffs are plainly contending that they collectively engaged in activity that is protected under Section 7 of the NLRA. *See Air Contact Transp. Inc.*, 403 F.3d at 208 (employee questioning employer about wage issues and other conditions of employment was a "concerted activity" as defined by the NLRA); *Waco Insulation, Inc.*, 567 F.2d at 599; *see also Livin' Spoonful, Inc.*, 361 NLRB at 601 ("It is undisputed that [the employee] and his coworkers engaged in protected concerted activity when they presented [the employer] with the March 2 letter requesting equal pay.").

The Complaint also alleges that Starbucks and Morris reported Plaintiffs' conduct to the police and contend that Starbucks did so to advance "an unlawful ulterior purpose" meant to "prevent[] Plaintiffs from publicly protesting Starbucks." (Compl. ¶¶ 59-62.) Importantly, the putative conduct which Plaintiffs rely upon to support this claim, i.e., their allegation that they were "publicly protesting Starbucks," is conduct that could be deemed a protected concerted activity under the NLRA. *See, e.g., Ohio River Valley Envtl. Coalition, Inc.*, 371 NLRB No. 135, 51-63 (finding an employee engaged in protected concerted activity when he publicly complained on social media and to the board of directors); *Kaiser Eng'rs*, 213 NLRB at 755 (finding that an employee engaged in a protected activity when he sent letters to legislators complaining about his employer). Thus, Plaintiffs undoubtedly base their abuse of process claim on activities that would be, on their face, protected under the NLRA.⁶ As such, Plaintiffs' abuse of process claim is preempted under *Garmon*.

Further, by alleging that Starbucks and Morris reported Plaintiffs to the police to stop

⁶ Starbucks in no way concedes the merits of Plaintiffs' allegations as it relates to their unfair labor practice claim. However, Defendant simply states that, given the obvious fact that Plaintiffs have premised their claims upon activity that falls under the exclusive jurisdiction of the NLRB, that is the sole and exclusive forum for their claims, meritorious or, as Starbucks contends, not. (*See e.g.* Starbucks' Answer.)

Plaintiffs from engaging in their public protest, Plaintiffs undoubtedly allege a violation of Section 8 of the NLRA. Employers may not restrain employees in the exercise of their Section 7 rights, including through use of the legal system. *See Triple Play Sports Bar & Grille*, 361 NLRB at 329; *Air Contract Transp. Inc.*, 403 F.3d at 212; *see also Ohio River Valley Envtl. Coalition*, 371 NLRB No. 135, at 51-63. *Garmon* preemption applies to actions that involve allegations of an employer restraining employees in the exercise of their Section 7 rights. *See id.* Since Plaintiffs' abuse of process claim is based upon such alleged conduct, this Court lack jurisdiction to hear such claims.

Moreover, Plaintiffs' claim for abuse of process is "identical" to one that they could present (and in fact have presented) to the NLRB: that Plaintiffs engaged in protected, concerted activity and Starbucks retaliated against Plaintiff for engaging in such protected concerted activity. *See United Credit Bureau, Inc.*, 643 F.2d at 1025. Thus, that Plaintiffs could present (and have presented) an identical claim to the NLRB unequivocally establishes that *Garmon* preemption applies to Plaintiffs' abuse of process claim. *See id.* (discussing why *Garmon* preemption applied to a state claim and noting that a charge had already been filed with the NLRB).

Notably, Plaintiffs alleged in their NLRB charge that Starbucks violated the NLRA by reporting Plaintiffs to the police. (*See* Ex. A). Plaintiffs clearly base their claim of abuse of process in this case upon the exact **same** allegations that they relied upon to support their claims of alleged violations of the NLRA their NLRB charge. (*Compare* Ex. A, *with* Compl. at ¶¶ 59-63.) In other words, Plaintiffs allege that the conduct that gave rise to the claims that they submitted to the NLRB is identical to the conduct that gave rise to their abuse of process claim in this case. Accordingly, *Garmon* preemption applies to Plaintiffs' claim for abuse of process. *See United Credit Bureau, Inc.*, 643 F.2d at 1025.

Garmon preemption further applies here, not just because Plaintiffs can and did present an

identical claim to the NLRB, but also because Plaintiffs identified an alleged unfair labor practice as an element of their abuse of process claim. Under South Carolina law, an abuse of process claim has two essential elements: “first, an ulterior purpose, and second, a willful act in the use of the process not proper in the regular conduct of the proceeding.” *See Huggins v. Winn-Dixie Greenville, Inc.*, 249 S.C. 206, 209, 153 S.E.2d 693, 694 (S.C. 1967).

Importantly, *Food Lion, Inc. v. United Food & Commercial Workers International Union* (“*Food Lion*”), is instructive here. In *Food Lion*, the United States District Court for the District of South Carolina concluded that *Garmon* preemption applied because “a **portion** of the complaint sets forth unfair labor practices under the ‘ulterior purpose’ element of the state claim,” and that as a result, the court would need to “pass on the legality under the NLRA of precisely the same conduct that [could be brought] before the NLRB.” *Food Lion, Inc.*, 1993 WL 410024, at *7 (emphasis added); *see also Richardson v. Kruchko & Fries*, 966 F.2d 153 (4th Cir.1992) (holding that an abuse of process claim was preempted under *Garmon* where the plaintiff filed a charge with the NLRB alleging unfair labor practices and a complaint alleging abuse of process where the appellate court noted that the complaint was preempted because “the conduct relied on to prove a crucial element in the state action is conduct that is arguably covered by the NLRA.”)

Here, much like how the complaint in *Food Lion* identified unfair labor practices as the “ulterior purpose” of the preempted abuse of process claim, the Complaint in this case also presents an unfair labor practice—preventing Plaintiffs from protesting against Starbucks—as the alleged ulterior purpose which serves as an element of Plaintiffs’ claim for abuse of process. *See Food Lion, Inc.*, 1993 WL 410024, at *7.; *see also United Credit Bureau*, 643 F.2d at 1024 (agreeing that plaintiff’s lawsuit was like an abuse of process suit and further concluding that “[p]reemption [was] accordingly required” under Supreme Court precedent). Accordingly, since Plaintiffs’

Complaint alleges an unfair labor practice as an element of their claim for abuse of process, *Garmon* preemption applies to their claim for abuse of process.

Thus, given that Plaintiffs' abuse of process claim is identical to a claim that they could present (and have presented) to the NLRB and given that Plaintiffs alleged an unfair labor practice as an element of their abuse of process claim, *Garmon* preemption applies here and unequivocally prevents this Court from exercising jurisdiction over Plaintiffs' abuse of process claim. Therefore, the Court must dismiss the abuse of process claim.

B. *Garmon* Preemption Also Compels the Dismissal of Plaintiffs' Defamation Claim Because Plaintiffs Allege Facts That, if True, Would Describe a Prohibited Unfair Labor Practice Under the NLRA

Like Plaintiffs' abuse of process claim, Plaintiffs' defamation claim is preempted under *Garmon* because *Garmon* preempts defamation claims that are simply relabeled unfair labor practice charges. *See Papa*, 162 F.3d at *2; *see also Pain Relief Ctrs., P.A.*, 371 NLRB No. 143, 7, 57-58 (2022).⁷

Papa is instructive here. In *Papa*, the plaintiff claimed that his employer terminated his employment "for engaging in labor activities." *See Papa*, 162 F.3d at *2. Thus, the court in *Papa* concluded that *Garmon* preemption applied to the plaintiff's tort claims, including his defamation claim, because those claims were "based on the same conduct" and were merely "artfully pleaded unfair labor practice charges." *See id.*

Here, Plaintiffs' defamation claim is "identical" to claims they could present to the NLRB, which means that *Garmon* preemption requires dismissal of the defamation claim. *See United*

⁷ The Supreme Court has explained that *Garmon* may not preempt defamation claims in all instances. *See Linn v. United Plant Guard Workers*, 383 U.S. 53, 61, 86 S.Ct. 657, 662 (1966). *Linn*, however, is inapplicable where a party seeks to use a defamation claim to "usurp the Board's jurisdiction over the merits of [a] labor dispute." *See Pain Relief Ctrs., P.A.*, 371 NLRB No. 143, at 57-58.

Credit Bureau, Inc., 643 F.2d at 1025. Plaintiffs first contend that they approached Morris about a wage increase; thus, as discussed above, Plaintiffs expressly describe putative protected concerted activity under Section 7 of the NLRA. *Compare* (Compl. ¶ 20), with *Air Contract Transp. Inc.*, 403 F.3d at 208; *Waco Insulation, Inc.*, 567 F.2d at 599; *see also* *Living Spoonful, Inc.*, 361 NLRB at 601. As noted above, this alone is sufficient to warrant dismissal based upon *Garmon* preemption. *Food Lion, Inc.*, 1993 WL 410024, at *7; *Richardson v. Kruchko & Fries*, 966 F.2d 153; *United Credit Bureau, Inc.*, 643 F.2d at 1025. Moreover, Plaintiffs, in their NLRB charge, clearly alleged that comments made by Starbucks, including those made by Morris to the police, violated their rights protected by the NLRA. (*See* Ex. A.) Thus, Plaintiffs' defamation claim is identical to a claim that they could, and in fact did, present to the NLRB. As such, *Garmon* preemption applies to Plaintiffs' defamation claim.

Further, Plaintiffs allege retaliatory conduct from Starbucks and Morris in response to their concerted activities directed towards Morris and Starbucks (which Starbucks denies), i.e., demanding increased wages. (Compl. ¶¶ 27-38, 50-57.) Allegations that retaliatory conduct occurred in response to concerted protected activity, if true, could describe a violation of Section 8 of the NLRA. *Compare* (Compl. ¶¶ 46-48), with *Triple Play Sports Bar & Grille*, 361 NLRB at 329; *Air Contract Transp. Inc.*, 403 F.3d at 212; *Ohio River Valley Envtl. Coalition*, 371 NLRB No. 135, at 51-63. Specifically, Plaintiffs contend Starbucks and Morris made false statements against them to prevent them from protesting Starbucks' conduct. Again, if an employer takes action—including using the legal system—to prevent an employee from protesting his employer's conduct, such action violates Section 8 of the NLRA. *Compare* (Compl. ¶¶ 51-57, 62), with *Triple Play Sports Bar & Grille*, 361 NLRB at 329; *Ohio River Valley Envtl. Coalition*, 371 NLRB No. 135, at 51-63. In other words, like in *Papa*, Plaintiffs' defamation claim here is “simply [an]

‘artfully pleaded unfair labor practice charge[]’” because that claim and the allegations supporting that claim involve conduct that violates Section 8 of the NLRA. *See id.*

In sum, Plaintiffs’ defamation claim is simply an unfair labor practice claim disguised as a tort claim. As such, *Garmon* preemption applies and prohibits this Court from exercising jurisdiction over Plaintiffs’ defamation claim. Further, given that Plaintiffs’ defamation claim is identical to a claim that they could present to the NLRB (and in fact did present to the NLRB), this claim is also preempted pursuant to *Garmon* and this Court must defer to the NLRB to resolve such a claim. Therefore, dismissal of Plaintiffs’ defamation claim is proper.

V. CONCLUSION

For the reasons stated herein, Defendant respectfully requests that the Court Grant Defendant’s Motion to Dismiss Plaintiffs’ Complaint, with prejudice.

LITTLER MENDELSON, P.C.

Dated: February 2, 2023

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Pending Motion for Admission Pro Hac Vice

*Attorneys for Defendant Starbucks
Corporation*

Exhibit A

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 10-CA-300921	Date Filed 8/8/2022

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Starbucks Corporation		b. Tel. No. 208-318-2212
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 2401 Utah Avenue South, Suite 800 Seattle, WA 98134 4686 Clemson Blvd., Anderson, SC 29621	e. Employer Representative Howard Schultz, CEO (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) @gmail.com	g. e-mail hschultz@starbucks.com h. Number of workers employed 25
i. Type of Establishment (factory, mine, wholesaler, etc.) Coffee shop	j. Identify principal product or service Food and beverage	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

In the past six months, the above-named Employer, by its officers, agents, and representatives, has violated the Act by:

On or about (b) (6), (b) (7)(C) 2022, Starbucks suspended or effectively suspended Union leaders and supporters, prohibited them from working in other Starbucks locations, banned them from entering all Starbucks locations, reported them to police, and closed the store's operation in retaliation for workers' protected concerted activity. Starbucks failed to give the Union notice or an opportunity to bargain over any of these actions.

The Union seeks expedited injunctive relief under Section 10(j) of the Act to prevent irreparable destruction of employee rights.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Workers United, Southern Regional Joint Board

4a. Address (Street and number, city, state, and ZIP code) 1777 Phoenix Parkway, Suite 230, Atlanta, GA 30349	4b. Tel. No. 770-306-8856
	4c. Cell No.
	4d. Fax No.
	4e. e-mail baumann2468@gmail.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

Workers United, a/w SEIU

6. DECLARATION

I declare that I have read the above charge and that the statements
are true to the best of my knowledge and belief.

Ian Hayes, Attorney

(signature of representative or person making charge)

(Print/type name and title or office, if any)

Hayes Dolce

Address 135 Delaware Ave., Ste. 502, Buffalo, NY 14202

Date Aug 6, 2022

Tel. No.
716-608-3427

Office, if any, Cell No.

Fax No.

e-mail
ihayes@hayesdolce.comWILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

State of South Carolina	)	IN THE COURT OF COMMON PLEAS
	)	
County of Anderson	)	Case No.: 2022-CP-04-02159
Skylar Blume, Virgil Dowis, Rhi Greer,	)	
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, & Aneil Tripathi,	)	
	)	
Plaintiffs,	)	Memorandum in Opposition to
v.	)	Defendants' Motion For Case Assignment
	)	to the Business Court Program
Starbucks Corporation & Melissa Morris,	)	
	)	
Defendants.	)	

Plaintiffs bring two tort claims against Defendants for defamation and abuse of process. These claims arise from a false police report filed against Plaintiffs by Defendant Melissa Morris. Morris acted in coordination with Defendant Starbucks Corporation, who subsequently publicized the false report to a national audience. The Anderson Sheriff's Office has publicly confirmed that "none of the allegations" made by Defendants are true.

Plaintiffs do not consent to assignment to the Business Court Program. Generally, Circuit Courts will not refer a case to Business Court without the consent of all Parties. *W.B. Guimarin & Co Inc. v. Skanska/Trident, et al.*, 2017-CP-10-03879, 2019 S.C. C.P. LEXIS 2590, *11 (J. Edward Miller, January 31, 2019) ("The court is aware of the practice to order cases to the Business Court only when all parties consent to participate in such Court."). Based on this standard practice, Defendants' motion should be denied. Notably, the *W.B. Guimarin & Co* case involved two related lawsuits, involved multiple insurance companies and contractors as defendants with multiple insurance policies applying to the action, and had a third party complaint filed against the City of Charleston. Despite this obvious complexity, Judge Miller denied the

motion to refer the matter to Business Court. Defendants' Motion must be denied for the same reasons relied on by Judge Miller.

In addition to Plaintiffs' lack of consent to Business Court, Defendants' motion must be denied because this case does not meet the requirements or intent of the Business Court Program. The purpose of the Business Court Program is to provide "an option to litigate complex business, corporate, and commercial matters in the circuit courts." *In Re: Business Court Pilot Program Expansion Statewide* (S.C. January 3, 2014). The Business Court has jurisdiction over civil matters as follows:

- a. Title 33—South Carolina Business Corporation Act of 1988;
- b. Title 35—South Carolina Uniform Securities Act of 2005;
- c. Title 36, Chapter 8—South Carolina Uniform Commercial Code: Investment Securities;
- d. Title 39, Chapter 3—Trade and Commerce: Trusts, Monopolies, and Restraints of Trade;
- e. Title 39, Chapter 8—Trade and Commerce: The South Carolina Trade Secrets Act;
- f. Title 39, Chapter 15—Trade and Commerce: Labels and Trademarks; or,
- g. for such other cases as the Chief Business Court Judge may determine.

In Re: Amended Business Court Program (S.C. Jan. 30, 2019).

This case is a tort case with two causes of action arising from a single incident brought by the Plaintiffs against an individual and her employer. It has no bearing on any "complex business, corporate, [or] commercial matter." Defendants falsely attempt to cast Plaintiffs' straight-forward claims as far more complex than they are based on a single motion to dismiss under Rule 12(b)(1) presently pending before the court and being heard along with the motion addressed herein. This is the **only** ground that Defendants have cited to argue this case involves "complex issues and legal

doctrines.”¹ *In Re: Amended Business Court Program* (S.C. Jan. 30, 2019). This single motion—that is being heard presently by this Court and will presumably be decided shortly—does not give rise to “complex” litigation, nor does this case fit with the intent of the Business Court Program. Defendants’ motion must be denied.

Defendants seek have this case assigned to business court as an “other case” because this case is not brought under any of the statutes enumerated by the Supreme Court. “[T]he meaning of general words..., may be restricted by words of specification which precede them...on the theory that, had the legislature intended the general words be used in their unrestricted sense, there would have been no mention of the particular class.” *State v. Four Video Slot Machines*, 453 S.E.2d 896, 898 (S.C. 1995). Clearly, the intent of the Business Court Program was for cases having a significant nexus with business, corporate, or commercial matters to be referred to the Business Court. The Business Court was not created for any case that has multiple parties or a motion to dismiss under Rule 12(b)(1). This case is not appropriate for Business Court, and Defendants’ motion should be denied.

CONCLUSION

For the foregoing reasons, Defendants’ Motion for Case Assignment to the Business Court Program must be denied.

Respectfully Submitted,

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¹ Defendants curiously argue that the appearance of out-of-state lawyers somehow requires this case be assigned to Business Court. Defendants have not cited any authority for this assertion.

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Pending.*

Date: February 2, 2023

State of South Carolina	)	IN THE COURT OF COMMON PLEAS
	)	
County of Anderson	)	Case No.: 2022CP-04-02159
Skylar Blume, Virgil Dowis, Rhi Greer,	)	
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, & Aneil Tripathi,	)	
	)	Memorandum of Points and Authorities
Plaintiffs,	)	in Opposition to Defendants' Motions to
v.	)	Dismiss
	)	
Starbucks Corporation & Melissa Morris,	)	
	)	
Defendants.	)	

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This case arises from a false police report filed against Plaintiffs by Defendant Melissa Morris, in coordination with Defendant Starbucks Corporation, and subsequently publicized by Starbucks to a national audience. The Anderson Sheriff's Office has publicly confirmed that "none of the allegations" made by Defendants are true. Plaintiffs' complaint asserts two causes of action under South Carolina law: defamation and abuse of process. Plaintiffs seek damages for harm to reputation, as well as other injuries.

Defendants now seek to dismiss the complaint. Their sole argument is that Plaintiffs' state law claims are preempted by a federal statute, the National Labor Relations Act (NLRA). Because Defendants' argument is foreclosed by federal law, their motions should be denied.

First, the U.S. Supreme Court has squarely held that claims of malicious defamation are not preempted by the NLRA. *See Linn v. Plant Guard Workers*, 383 U.S. 53, 61–67 (1966). The Court held that states have a "deeply rooted" interest in redressing malicious defamation, while such claims are of "merely peripheral concern" to federal labor law. *Id.* at 61–62 (internal quotation marks omitted). Indeed, a claim for "injury . . . to reputation" has "no relevance" to the agency that enforces the NLRA, and that agency can "award no damages, impose no penalty, [and] give [no] other relief to the defamed individual." *Id.* at 63.

Second, for essentially the same reasons, federal law does not preempt Plaintiffs' abuse of process claim. Indeed, the state has an even stronger interest in redressing reputational harm to residents arising from misuse of the state's own legal processes. This conclusion is confirmed by persuasive precedent from other jurisdictions.

Finally, under precedent of the U.S. Supreme Court, it is irrelevant whether the federal labor board is considering an unfair labor practice charge relating to the same incident. In *Linn*, the Court squarely rejected the argument that an overlapping federal board proceeding means

that state law claims cannot proceed. In any event, the pending federal charges in this case contain no reference to Defendants' false police report and subsequent false public statements. Stated simply, Plaintiffs' claims for damages under South Carolina law are not preempted by the NLRA.

I. BACKGROUND

Plaintiffs are eight current or former employees of a Starbucks store in Anderson, South Carolina. On August 1, 2022, Plaintiffs and other workers peacefully approached their manager, Defendant Morris, and presented a letter. Compl. ¶ 20. Morris then walked toward the store exit, pushing past one of the workers, Plaintiff Jonathan Hudson, as she did so. *Id.* ¶¶ 21–22. During the interaction, all workers remained peaceful and non-violent; no employee touched Morris or blocked the exit. *Id.* ¶ 23.

That same day, Kevin Kraham, a Starbucks corporate attorney, emailed Michael Schoenfeld falsely stating that Plaintiff Aneil Tripathi had engaged in “abusive, belligerent, and menacing conduct” by blocking Morris from leaving the store. *Id.* ¶¶ 31–33. Schoenfeld is an attorney for Workers United, a labor union representing workers at Starbucks. *Id.* ¶ 31.

Two days later, Morris falsely reported to the police that the workers had prevented Morris from leaving the store and that one of them had assaulted Morris. *Id.* ¶ 27–28. The police report indicates that the workers were accused of “Assault / Assault & Battery 3rd degree” and “Kidnapping.” *Id.* ¶ 29.

On August 8, Starbucks published a statement falsely asserting that Plaintiffs engaged in conduct that threatened Morris and falsely insinuating that Plaintiffs had engaged in criminal misconduct. *Id.* ¶¶ 36, 37. Given the coordinated response to the incident and the involvement of

Starbucks's corporate attorneys, Morris and the company appear to have worked together to submit the false police report and publish the false statement about Plaintiffs. *Id.* ¶ 38.

Defendants knew that their statements were false. *Id.* ¶ 54. Morris knew that no worker had committed assault or blocked the exit. *Id.* ¶ 23. And Starbucks had access to a video, posted publicly online, showing that the workers had engaged in no violent or unlawful conduct. *Id.* ¶¶ 3, 22.

The police investigated the incident following Morris's false report. *Id.* ¶ 39. The police interviewed plaintiffs at their homes, informing them that they were being investigated for assault and kidnapping based on Morris's report. *Id.* ¶¶ 40–42. At Morris's request, the police also sought an arrest warrant for one or more of the Plaintiffs. *Id.* ¶ 43. A magistrate judge denied the request based on insufficient evidence. *Id.*

On September 15, 2022, the Anderson Sheriff's Office confirmed that Morris's report was false, stating that "[t]he employees did not stop her from leaving and did not put their hands on her, which is what the boss reported had happened." *Id.* ¶¶ 44–45. The Sheriff's Office clarified that it was Morris "who initiated any kind of contact when she pushed past one of the employees as she was walking out of the door." *Id.* ¶ 45.

Despite the Sheriff's Office's statement, Defendants have never retracted their false and misleading statements accusing Plaintiffs of criminal assault and kidnapping. *Id.* ¶ 53. As a result of Defendants' conduct, Plaintiffs suffered harm to their reputations as well as emotional distress and mental suffering. *Id.* ¶¶ 46–48.

Plaintiffs brought this suit in October 2022, alleging that Morris and Starbucks are liable for defamation and abuse of process under South Carolina law. *Id.* ¶¶ 58–63. Starbucks and Morris each filed motions to dismiss under Rule 12(b)(1).

II. LEGAL STANDARD

Defendants seek dismissal under Rule 12(b)(1), which governs motions for “lack of jurisdiction over the subject matter.” Defendants assert preemption under federal law. There are “two cornerstones to federal preemption jurisprudence.” *City of Cayce v. Norfolk Southern Ry.*, 706 S.E.2d 6, 8 (S.C. 2011). First, Congress’s intent is the “ultimate touchstone in every preemption case.” *Id.* Second, “in all preemption cases, . . . the courts start with the assumption that the historical police powers of the states were not to be superseded by the federal act unless that was the clear and manifest purpose of Congress.” *Id.*

Defendants invoke preemption under the NLRA. In general, conduct that is “arguably subject” to the NLRA cannot form the basis of a state litigation. *San Diego Bldg. Trades Council v. Garmon*, 359 U.S. 236, 245 (1959). However, preemption does not apply when the conduct giving rise to the suit is of “merely peripheral concern” to federal labor law or where it “touch[es] interests . . . deeply rooted in local feeling and responsibility.” *Id.* at 244. Applying that standard, the Supreme Court has expressly held that various state tort claims are not preempted, including malicious defamation, misrepresentation, and intentional infliction of emotional distress. *See, e.g., Linn v. Plant Guard Workers*, 383 U.S. at 61–67; *Belknap, Inc. v. Hale*, 463 U.S. 491, 510–11 (1983); *Farmer v. Carpenters Local 25*, 430 U.S. 290, 302 (1977).

III. ARGUMENT

Defendants argue that Plaintiffs’ claims are preempted because they are “based upon conduct, that if true, concerns rights protected by the [NLRA] or would constitute unfair labor practices under the NLRA.” But the courts have made clear that federal preemption does not sweep so broadly, and therefore Defendants’ motions should be denied.

A. Plaintiffs' defamation claim is not preempted.

As to the defamation claim, Defendants' motions are squarely foreclosed by Supreme Court precedent. In *Linn*, the Court held that the NLRA does not preempt state law claims for malicious defamation. 383 U.S. at 55. The Court held that such claims satisfy the exceptions to the general preemption doctrine established by *Garmon*: they are of "merely peripheral concern" to federal labor law and there is an "overriding state interest in protecting its residents from malicious libel." *Id.* at 61 (quotation marks omitted).

Linn specifically rejected the argument that a defamation claim is preempted when it arises from conduct that could also support an unfair labor practice charge before the National Labor Relations Board (Board or NLRB), the agency that enforces the NLRA. The Court reasoned that, while certain false statements may be unfair labor practices, the Board's inquiry does not turn on the statements' "defamatory quality." *Id.* at 63. Accordingly, "[th]e injury that the statement might cause to an individual's reputation—whether he be an employer or a union official—has no relevance to the Board's function." *Id.* And the "Board can award no damages, impose no penalty, or give any other relief to the defamed individual." *Id.* Thus, the Supreme Court concluded: "When the Board and state law frown upon the publication of malicious libel, albeit for different reasons, it may be expected that the injured party will request both administrative and judicial relief." *Id.* at 67; *see also Pa. Nurses Ass'n v. Pa. State Educ. Ass'n*, 90 F.3d 797, 804 (3d Cir. 1996) (allowing a defamation claim to go forward even though "much of the conduct forming the basis" of the claim "also underlies the potential unfair labor practice charges").

Under *Linn*, plaintiffs may pursue defamation claims so long as they plead actual malice, meaning that the alleged defamatory statements were "published with knowledge of their falsity

or with reckless disregard of whether they were true or false,” and the plaintiff suffered harm, such as “general injury to reputation, [and] consequent mental suffering.” *Linn*, 383 U.S. at 65 (citing *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964)).

Federal circuits have frequently applied *Linn* to reject preemption defenses to defamation suits where the plaintiff pleads malice. See, e.g., *Intercity Maint. Co. v. Service Emps. Local 254*, 241 F.3d 82, 89 (1st Cir. 2001) (“In *Linn*, the Court carved out an exception to the *Garmon* preemption rule for defamatory statements made with actual malice, adopting the standard applicable to public offices from *New York Times Co. v. Sullivan*.”); *Dunn v. Air Line Pilots Ass’n*, 193 F.3d 1185, 1191–92 (11th Cir. 1999) (similar); *Chi. Dist. Council of Carpenters Pension Fund v. Reinke Insulation Co.*, 464 F.3d 651, 655 (7th Cir. 2006) (similar); *Pa. Nurses Ass’n*, 90 F.3d at 806 (similar).

Despite this clear line of precedent from the Supreme Court and several circuit courts, Starbucks appears to rely on an unpublished Fourth Circuit case, *Papa v. Truland Systems Corp.*, 162 F.3d 1155 (4th Cir. 1998) (per curiam). Because *Papa* is unpublished, it is not binding within the Fourth Circuit, let alone binding on this Court, and citation to the case is “disfavored.” See Fourth Cir. R. 32.1, 36(b). Moreover, the short decision does not apply *Linn*, the controlling Supreme Court authority, to the defamation claim at all. In any event, *Papa* is factually dissimilar from this case. Nothing in the decision suggests that Papa alleged that his employer made false statements to third parties or that his employer acted with malice, as plaintiffs allege here.

Here, a straightforward application of *Linn* shows that Plaintiffs’ claims can proceed because Plaintiffs plead facts supporting actual malice. A defendant acts with malice when it makes a false statement “with knowledge that it was false or with reckless disregard of whether it

was false or not.” *See N.Y. Times Co.*, 376 U.S. at 280. Reckless disregard for the truth can be shown with “sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication.” *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). This “may be proved by inference, as it would be rare for a defendant to admit such doubts,” and “[a] court typically will infer actual malice from objective facts.” *Bose Corp. v. Consumers Union of U.S., Inc.*, 692 F.2d 189, 196 (1st Cir. 1982), *aff’d*, 466 U.S. 485 (1984). At the motion to dismiss stage, a plaintiff need only plead “‘plausible grounds’ to infer actual malice by alleging ‘enough fact[s] to raise a reasonable expectation that discovery will reveal evidence of’ actual malice,” *Biro v. Condé Nast*, 807 F.3d 541, 546 (2d Cir. 2015) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007)).

Plaintiffs’ allegations support a finding that Morris knew her statements were false. Morris was present at the event giving rise to the police report and thus knew that no worker committed assault or blocked the exit. *See* Compl. ¶¶ 20–26. As the Supreme Court has explained, where a defendant accused of defamation made untrue statements about an event at which they were present, the defendant “must have known” that the statements were untrue. *See Cantrell v. Forest City Publishing Co.*, 419 U.S. 245, 252–53 (1974). Plaintiffs also alleged that video footage shows that Morris’s report was false, Compl. at ¶ 22, and that the police investigation confirmed that it was false, *id.* at ¶¶ 44–45.

As to Starbucks, Plaintiffs allege that the company published a statement “falsely stat[ing] that the Plaintiffs engaged in conduct that threatened Defendant Morris and falsely insinuate[ing] that Plaintiffs had engaged in criminal misconduct,” *id.* at ¶¶ 36–37, and that the company worked with Morris to submit the false police report, *id.* at ¶ 38. Plaintiffs pursue two separate theories to hold Starbucks liable. First, the company is vicariously liable for Morris’s

defamatory statements because Morris acted as an employee of Starbucks, in coordination with its upper management. *See* Compl. at ¶¶ 20–21, 38; *Cantrell*, 419 U.S. at 253–54 (holding that a publisher could be “held vicariously liable for the damage caused by the knowing falsehoods contained” in a story written by its employee). Under this theory, Morris’s malice is attributed to Starbucks.

The company is also liable for its own malicious conduct. As the Supreme Court has held, reckless disregard for the truth “may be found where there are obvious reasons to doubt the veracity of the informant or the accuracy of his reports” or through the “purposeful avoidance of the truth.” *Harte-Hanks Communications, Inc. v. Connaughton*, 491 U.S. 657, 688, 692 (1989) (quotation marks omitted). Here, there was a publicly-available video of the interaction between Morris and Plaintiffs. *See* Compl. at ¶¶ 22, 41, 45. If company officials watched the video, then they knew Morris was an unreliable informant. But if they ignored the video, then they purposefully avoided the truth. *See id.* at 692 (finding reckless disregard for the truth where the defendant made a “deliberate decision not to acquire knowledge of facts that might confirm he probable falsity” of the informant’s charges).

Importantly, Plaintiffs alleged that neither Defendant ever retracted their statements, even after the Anderson Sheriff’s Office publicly confirmed that the police report was false. *Id.* at ¶ 53. This, again, shows at least reckless disregard by both Defendants.

Finally, Plaintiffs also alleged that they suffered harm to their reputations and mental suffering as a result of Defendants false statements, thus satisfying the requirement to plead harm. *Id.* ¶¶ 46–48.

In sum, Plaintiffs’ defamation claim is not preempted under *Linn*. The Court should deny dismissal of the defamation claim.

B. Plaintiffs' abuse of process claim is not preempted.

Plaintiffs also assert abuse of process. "The tort of abuse of process is intended to compensate a party for harm resulting from another party's misuse of the legal system." *Pallares v. Seinar*, 407 S.C. 359, 370 (2014). The claim requires a showing of "(1) an ulterior purpose, and (2) a willful act in the use of the process that is not proper in the regular conduct of the proceeding." *Id.*

Although the U.S. Supreme Court has not directly addressed whether abuse of process claims are preempted by the NLRA, its precedents show that Plaintiffs' claim is not preempted. In *Linn*, the Court rejected preemption because states have a strong interest in redressing malicious defamation; defamatory conduct is "merely peripheral" to the NLRA; and the NLRB cannot grant any remedy for reputational harm. *See supra* at 5. In *Belknap*, the Court extended *Linn* to other claims involving "misrepresentations that have caused . . . grievous harm." *Belknap*, 463 U.S. at 511. Specifically, the Court rejected preemption where plaintiffs claimed that a company defrauded them by misrepresenting that they were being hired as permanent employees rather than temporary ones. *Id.* at 494–97, 512.

Under these precedents, Plaintiffs' abuse of process claim is not preempted. Plaintiffs' claim seeks compensation for the same sort of reputational harm deemed of "no relevance" to the NLRA in *Linn*, an injury for which Plaintiffs can receive no relief from the federal labor board. 383 U.S. at 63. Plaintiffs allege "misrepresentation" causing "grievous harm," as in *Belknap*. 463 U.S. at 511. And whatever interest a state has in protecting residents from defamatory statements, it surely has an even greater interest in protecting residents from similar harm that arises through misuse of the state's own legal processes. The state's interest is especially strong

here because police processes were abused, undermining the state's ability to use law enforcement to maintain, not disrupt, "domestic peace." *Garmon*, 359 U.S. at 247.

Defendants' motion is also at odds with Supreme Court precedent holding that other state tort claims, including intentional infliction of emotional distress, are preserved under the deeply rooted local feeling exception of *Garmon* because of the "compelling state interest, in the scheme of our federalism, in the maintenance of domestic peace." *Garmon*, 359 U.S. at 247–48; *see id.* (torts involving "violence and imminent threats" are not preempted); *Farmer*, 430 U.S. at 302 ("The State . . . has a substantial interest in protecting its citizens . . . from emotional distress caused by outrageous conduct."); *Sears, Roebuck & Co. v. San Diego Cty. Dist. Council of Carpenters*, 436 U.S. 180, 204–05 (1978) (trespass claim not preempted).

And Defendants' motions fail under persuasive precedent from other federal courts that have rejected preemption in similar circumstances. For example, the Ninth Circuit has held that false imprisonment, false arrest, and malicious prosecution claims are not preempted by the NLRA. *Radcliffe v. Rainbow Constr. Co.*, 254 F.3d 772, 785 (9th Cir. 2001). In that case, union representatives brought those state law claims against an employer after they were jailed and prosecuted for trespassing when they entered the employer's premises to engage in activities protected by the NLRA. *Id.* at 778–79. The court determined that these claims were not preempted because "[f]reedom of citizens from false arrest, false imprisonment, and malicious prosecution 'touch[] interests so deeply rooted in local feeling and responsibility that, in the absence of compelling congressional direction, we could not infer that Congress had deprived the States of power to act.'" *Id.* at 785 (quoting *Garmon*, 359 U.S. at 243–44).

Federal district courts have similarly held that related torts are not preempted by the NLRA. For instance, the Eastern District of Pennsylvania held that claims for malicious

prosecution and “wrongful abuse of civil process” were not preempted when workers claimed that their employer falsely accused them of theft. *Roberts v. Caesar’s Ent., Inc.*, 72 F. Supp. 3d 575, 582, 584 (E.D. Pa. 2014). Relying on *Linn*’s recognition of an “‘overriding state interest’ in protecting citizens from malicious libels,” the court reasoned that the states similarly have a “strong interest in protecting [their] residents from the misuse of criminal and civil processes.” *Id.* at 585 (quoting *Linn*, 383 U.S. at 63–64). The court also noted that the NLRB is “without power to award damages” for the injury caused by these torts, thus strengthening the conclusion that the state claims should go forward. *Id.* at 585. Likewise, the Eastern District of New York has held that state law claims for malicious prosecution and false arrest are not preempted. *Moore v. City of New York*, 219 F. Supp. 2d 335, 340 (E.D.N.Y. 2002).¹

In sum, under the key governing precedents of the U.S. Supreme Court, as well as persuasive precedent from several federal circuit and district courts, this Court should reject Defendants’ request to dismiss the abuse of process claim.

¹ There is no applicable precedent to the contrary. The Fourth Circuit has found an abuse of process claim preempted by the NLRA, but only because the process alleged to have been misused was the NLRB’s own unfair labor practice proceedings. *United Credit Bureau of Am., Inc. v. NLRB*, 643 F.2d 1017, 1026 (4th Cir. 1981). The court in that case was careful to limit its holding to “employers’ civil actions against employees, in the nature of abuse of process and factually based upon *the employee’s filing of unfair labor practice charges with the Board.*” *Id.* at 1026 (emphasis added). The court reasoned that the Board itself was “uniquely positioned” to decide whether its processes were abused. *Id.* Here, however, there is no allegation that anyone misused NLRB processes.

C. There is no risk of interference with any NLRB proceedings.

In support of its motion to assign this case to the Business Court, Starbucks argued that unfair labor practice charges filed by Workers United weigh in favor of preempting Plaintiffs' tort claims.

Defendants' argument fails under *Linn*. There, the Supreme Court explicitly rejected the notion that parallel unfair labor practices before the NLRB require preemption of defamation claims. The Court explained that to the extent the Board adjudicates defamatory statements, it does so only for the purpose of determining whether the statements were so "coercive or misleading" as to require, for example, that a union election be set aside. *Linn*, 383 U.S. at 63. In contrast, as explained above, "injury . . . to reputation . . . has no relevance to the Board's function," and the Board "can award no damages, impose no penalty, or give any other relief to the defamed individual." *Id.* Thus, when a statement constitutes both defamation and an unfair labor practice, "it may be expected that the injured party will request both administrative and judicial relief." *Id.* at 66. Thus, *Linn* establishes that Plaintiffs can proceed on their state defamation claim regardless of the possibility of parallel Board proceedings.

The same reasoning applies to Plaintiffs' abuse of process claim. To the extent Defendants are claiming that preemption applies because their misuse of state legal processes was arguably prohibited by the NLRA, the Supreme Court has held that the "critical inquiry" is "whether the controversy presented to the state court is identical with that which could be presented to the Board." *Belknap*, 463 U.S. at 509–10 (citing *Sears, Roebuck*, 463 U.S. 180). Where those controversies are not "identical," a state-law claim is not preempted. *Sears, Roebuck*, 436 U.S. at 198.

Here, far from being “identical,” there is no overlap at all. To prevail on the abuse of process claim, Plaintiffs must show: “(1) an ulterior purpose, and (2) a willful act in the use of the process that is not proper in the regular conduct of the proceeding.” *Pallares*, 507 S.C. at 370. Neither of these elements require the court to determine that Starbucks violated the NLRA or that Plaintiffs’ actions were protected by the NLRA. To establish the first element, “ulterior purpose,” Plaintiffs must show that Defendants used a process “primarily to accomplish a purpose for which it is not designed,” which the South Carolina Supreme Court has noted “usually takes the form of coercion to obtain a collateral advantage.” *Id.* at 371 (quotation marks and emphasis omitted). Here, Plaintiffs have satisfied that element by alleging that Defendants misused police processes for the illegitimate collateral purpose of harming Plaintiffs and preventing public protest of Starbucks. Compl. ¶ 62. The “willful act” element is established by showing “[s]ome definite act of threat not authorized by the process or aimed at an object not legitimate in the use of the process.” *Hainer v. Am. Med. Int’l, Inc.*, 328 S.C. 128, 136 (1997). Here, that element is satisfied by Plaintiffs’ allegations that Defendants submitted a plainly false police report. *See* Compl. ¶¶ 27–28, 38, 62. No part of the claim depends upon the resolution of any NLRA issues.

Moreover, in NLRB proceedings, Plaintiffs can obtain no relief for the harm to their reputations arising from Defendants’ misuse of police processes, an injury for which the NLRB can “award no damages, impose no penalty, or give any other relief.” *Linn*, 383 U.S. at 63. In any related Board proceedings, the Board would analyze different issues and would relieve different harms.

For these same reasons, the Ninth Circuit rejected preemption of false arrest and malicious prosecution claims despite the possibility of parallel Board proceedings. The court

acknowledged that, in that case, “the state court is likely to focus in part on whether the plaintiffs were engaged in lawful union activity protected by the NLRA.” *Radcliffe*, 254 F.3d at 786. Nevertheless, “[t]he issues before the state court and the Board would not be identical.” *Id.* Consequently, the possibility of federal proceedings did not outweigh the state’s “substantial interest in protecting its citizens from false arrest, false imprisonment, and malicious prosecution.” *Id.* Here, the case against preemption is even stronger, because the state court need not decide whether the plaintiffs engaged in NLRA-protected activity to resolve plaintiffs’ claims.

Finally, the current operative NLRB charge seeks relief only from Starbucks’s decision to suspend and issue final written warnings to the workers, close the store and change its operating hours, and ban the workers from all Starbucks locations. Pl. Ex. A.² The amended charge does not allege that Starbucks violated the NLRA through the police report and subsequent false statements. Moreover, no charge at all has been filed against Morris. In short, Defendants’ false police report and false statements are not the subject of any unfair labor practice charge before the NLRB, and there is likely to be minimal overlap, if any, with the issues raised in this lawsuit.

CONCLUSION

For the foregoing reasons, Defendants’ motions to dismiss pursuant to SCRCP 12(b)(1) should be denied.

² The charge Starbucks attached to its motion to transfer this case to the Business Court Program has been superseded by an amended charge filed by Workers United on December 29, 2022. *See* Pl. Ex. A. Moreover, in evaluating this charge, the Board will consider only whether “the employer’s conduct, under the totality of the circumstances, would reasonably tend to interfere with” the workers’ NLRA rights. *CP Anchorage Hotel 2, LLC*, 370 N.L.R.B. No. 83 at *18 (2021).

Respectfully Submitted,

s/Matthew R. Ozment

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*Application and Motion for Pro Hac Vice
Pending.*

Date: February 2, 2023

Exhibit A

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**FIRST AMENDED CHARGE AGAINST EMPLOYER****INSTRUCTIONS:****DO NOT WRITE IN THIS SPACE**

Case

Date Filed

10-CA-300921

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Starbucks Corporation		b. Tel. No. 208.318.2212
		c. Cell No.
d. Address (Street, city, state, and ZIP code) 4586 Clemson Blvd, Anderson, SC 29621	e. Employer Representative Nicole Davis, District Manager	f. Fax No.
		g. e-mail ndavis@starbucks.com
		h. Number of Workers Employed 20
i. Type of Establishment Coffee House	j. Identify Principal Product or Service Food and Beverages	

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a)(1), (3), and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

The Employer banned eleven employees from other locations in response to their union and/or protected concerted activities.
The Employer suspended eleven employees in response to their union and/or protected concerted activities.
The Employer issued final written warnings to eight employees in response to their union and/or protected concerted activities.
The Employer failed to give notice to, and bargain with, the Union regarding the bans, suspensions, and final written warnings issued to employees.
The Employer failed to give notice to, and bargain with, the Union regarding the closing of the store and changing the store's operating hours.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Workers United, Southern Regional Joint Board

4a. Address (Street and number, city, state, and ZIP code) 1777 Phoenix Parkway, Suite 230 Atlanta, GA 30349	4b. Tel. No. 770.306.8856
	4c. Cell No.
	4d. Fax No.
	4e. e-mail Baumann2468@gmail.com

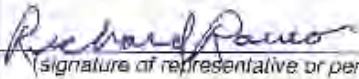
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) **Workers United, a/w SEIU**

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Tel. No.
205.918.7430

Office, if any, Cell No.


(signature of representative or person making charge)

Richard Rouco, Attorney
(Print/type name and title or office, if any)

Fax No.
205.918.7430

e-mail
rrouco@qcwdr.com

Address: **2-20th Street North, Suite 930
Birmingham, AL 35203**

Date: **12/20/22**

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	TENTH JUDICIAL CIRCUIT
	)	
Skylar Blume, Virgil Dowis, Rhi Greer,	)	Civil Action No. 2022-CP-04-02159
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, and Aneil	)	
Tripathi,	)	
	)	
Plaintiffs,	)	DEFENDANT MELISSA MORRIS'
	)	MOTION TO DISMISS
vs.	)	
	)	
Starbucks Corporation and Melissa	)	
Morris,	)	
	)	
Defendants.	)	
	)	

Defendant Melissa Morris (“Morris” or “Defendant”), by and through her undersigned counsel, timely moves to dismiss with prejudice Plaintiff’s causes of action against Defendant, pursuant to Rule 12(b)(1) of the South Carolina Rules of Civil Procedure.

The allegations in the Complaint directed at Defendant Morris alleged potential protected concerted activity and/or unfair labor practice, which, if true as alleged, stem from rights arguably protected by the National Labor Relations Act (“NLRA”). Such allegations are preempted by the NLRA. *San Diego Bldg. Trades Council V. Garmon*, 359 U.S. 236, 237, 79 S. Ct. 773, 775 (1959) (recognizing that certain state law claims and awarded relief were preempted by the NLRA when “it was arguable that the union activity involved in the instant case fell within the compass of the protected ‘concerted activities’ provision of 7 of [t]he [NLRA], or was an unfair labor practice under [Section] 8 of the [NLRA]”). As such, this Court is without jurisdiction over these claims and the claims against Defendant Morris should be dismissed, with prejudice, pursuant to Rule 12(b)(1) of the South Carolina Rules of Civil Procedure.

Defendant will more fully set forth the bases for this Motion in a Memorandum in Support that she subsequently will file and serve.

Pursuant to Rule 11(a) of the South Carolina Rules of Civil Procedure, the undersigned had no duty to consult with opposing counsel prior to filing and serving this Motion.

WHEREFORE, Defendant respectfully requests that the Court enter judgment in its favor on these causes of action and dismiss them with prejudice.

TURNER PADGET GRAHAM & LANEY P.A.

s/RW Belcher

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ATTORNEYS FOR DEFENDANT MORRIS

December 29, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	
Skylar Blume, Virgil Dowis, Rhi Greer,	)	Case No. 2022-CP-04-02159
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, and Aneil Tripathi,	)	
	)	
Plaintiffs,	)	DEFENDANT STARBUCKS
	)	CORPORATION'S MOTION TO
vs.	)	DISMISS
	)	
Starbucks Corporation and Melissa Morris,	)	
	)	
Defendants	)	
	)	

Defendant Starbucks Corporation (“Starbucks”), by and through its undersigned counsel, hereby respectfully moves this honorable Court for an Order dismissing Plaintiffs’ Complaint, with prejudice, pursuant to Rule 12(b)(1) of the South Carolina Rules of Civil Procedure. The grounds for this Motion are as follows:

Plaintiffs’ claims in the Complaint are based upon conduct, that if true, concerns rights protected by the National Labor Relations Act (“NLRA”) or would constitute unfair labor practices under the NLRA. Such claims arise under the “exclusive competence of the National Labor Relations Board.” *San Diego Bldg. Trades Council. v. Garmon*, 359 U.S. 236, 245 (1959). Thus, Plaintiffs’ claims are preempted under *Garmon*, this Court lacks jurisdiction over those claims, and these claims should therefore be dismissed.

This Motion is based on the Plaintiff’s Complaint, a Memorandum of Law to be filed with this Court, and applicable common and statutory laws.

WHEREFORE, Defendant respectfully requests that the Court issue an Order dismissing Plaintiffs’ claims against Defendant with prejudice.

Respectfully submitted this 23rd day of December, 2022.

WE SO MOVE:

Dated: December 23, 2022

LITTLER MENDELSON, P.C.

/s/ William H. Foster

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bfoster@littler.com

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Pending Motion for Admission Pro Hac Vice

*Attorneys for Defendant Starbucks
Corporation*

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ANDERSON	)	TENTH JUDICIAL CIRCUIT
Skylar Blume, Virgil Dowis, Rhi Greer,	)	Civil Action No. 2022-CP-04-02159
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, & Aneil Tripathi	)	
	)	
Plaintiffs,	)	MOTION FOR CASE ASSIGNMENT
	)	TO THE BUSINESS COURT
vs.	)	PROGRAM
	)	
Starbucks Corporation and Melissa	)	
Morris,	)	
	)	
Defendants.	)	

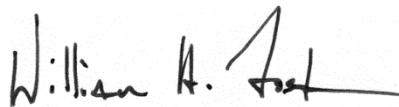
1. As counsel for a party who has appeared in this action, we move for an order of the Chief Business Court Judge assigning this case to the Business Court Program of the South Carolina Circuit Courts. We certify that as of the date of this Motion, no more than 180 days have passed since the commencement of this action. In addition, we certify that all parties have been notified of this request.

2. The principal claim or claims made in the above-referenced matter are made under the following Titles of the South Carolina Code and the matter is appropriate for assignment to the Business Court Program.

(Note: Please check all that are applicable, and attach a description of the claims made in the above-referenced lawsuit.)

- ☐ Title 33—South Carolina Business Corporation Act of 1988;
- ☐ Title 35—South Carolina Uniform Securities Act of 2005;
- ☐ Title 36, Chapter 8—South Carolina Uniform Commercial Code: Investment Securities;
- ☐ Title 39, Chapter 3—Trade and Commerce: Trusts, Monopolies, and Restraints of Trade;
- ☐ Title 39, Chapter 8—Trade and Commerce: The South Carolina Trade Secrets Act;
- ☐ Title 39, Chapter 15—Trade and Commerce: Labels and Trademarks; or
- ☒ Other Appropriate Matter determined by the Chief Justice.

3. Indicate whether the non-moving party or parties ☐ consents, ☐ does not oppose, ☒ opposes; ☐ position on assignment is unknown.



Non-Moving Party Signature (if applicable)

Attorney Name: Matthew R. Ozment
Firm: Grove Ozment
Contact Information: 100 Williams St.
Greenville, SC 29601, (864) 516-2222
SC Bar # 80027
Location: Greenville, SC

Signature

Attorney Name: William H. Foster
Firm: Littler Mendelson P.C.
Contact Information: 110 East Court Street, Suite 201
Greenville, SC 29601, (864) 775-3191
SC Bar #66221
Location: Greenville, SC
Date: December 22, 2022

WE CONSENT:

TURNER PADGET GRAHAM & LANEY, P.A

/RW Belcher

Reginald W. Belcher, Esq.

SC Bar # 11710

Post Office Box 1473

Columbia, South Carolina 29202

Telephone: 803-254-2200

Attachment to Motion to Assign to Business Court

Plaintiffs Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada, Braden Terrill, & Aneil Tripathi initiated this action on October 17, 2022, by filing the Complaint. Plaintiffs allege two causes of action for defamation and abuse of process and seek (1) declaratory relief, (2) injunctive relief, (3) damages, including compensatory and punitive damages, (4) attorney's fees and costs and (5) other relief deemed proper by the Court.

Plaintiffs' claims arise out of a labor dispute that falls under the exclusive jurisdiction of the National Labor Relations Board. The allegations center upon events that occurred following Plaintiffs' August 1, 2022, submission of written demands for wage increases and other requests "relating to the terms and conditions of [their] employment." (Complaint "Compl." at ¶ 20.) Plaintiffs submitted this request to Defendant Melissa Morris ("Morris") in her capacity as a District Manager for Defendant Starbucks Corporation ("Starbucks"). Plaintiffs submitted this written demand to Morris collectively, as part of a concerted effort to modify the terms of their employment with Starbucks. (*See id.*)

Defendant Starbucks submits that assignment to the Business Court is proper pursuant to the Order's "catch-all" provision because the instant case involves "complex issues and legal doctrines." *In Re Amended Business Court Program* (S.C. Jan. 30, 2019.) Specifically, Plaintiffs' claims as set forth in their Complaint are preempted pursuant to the doctrine set forth in *San Diego Bldg. Trades Council. v. Garmon*, 359 U.S. 236 (1959) and its progeny. *Garmon* preemption occurs "[w]hen an activity is arguably subject to § 7 or § 8 of the [National Labor Relations] Act, the States as well as the federal courts **must** defer to the exclusive competence of the National Labor Relations Board." *Garmon*, 359 U.S. at 245 (emphasis added). In other words, state law claims that are preempted under *Garmon* must be dismissed. The Fourth Circuit (the appellate

circuit covering South Carolina) and lower courts within that circuit have uniformly recognized this standard. *Papa v. Truland Sys. Corp.*, 162 F.3d 1155 (4th Cir. 1998).

Counsel for Starbucks has conferred with Plaintiffs' counsel and Plaintiffs do not consent to the assignment of this case to Business Court.¹ Specifically, counsel for Plaintiffs has argued that this matter is "a straightforward defamation and tort case." Respectfully, Plaintiffs' contention rings hollow given that Plaintiffs have simultaneously moved (with Defendants' consent) for the admission, *pro hac vice*, of no fewer than *four* out-of-state attorneys who practice exclusively in the area of federal labor law and who, not incidentally, currently represent Workers United, a labor union, in ongoing organization efforts against Starbucks. Indeed, Workers United has already filed an unfair labor practice charge against Starbucks on behalf of Plaintiffs based on the very same core of operative facts upon which Plaintiffs' claims in the instant case are based. (A copy of the referenced NLRB charge is attached hereto as **Exhibit A**.)

Workers United's pending charge, and Plaintiffs' request for the admission of Workers' United's labor attorneys – who are, presumably, far less experienced in "straightforward" South Carolina common law than Plaintiff's South Carolina counsel – unequivocally establish both that Plaintiffs' claims are wholly preempted pursuant to *Garmon* and that the instant matter is appropriate for assignment to the Business Court.

¹ Counsel for Defendant Morris has consented to this Motion and joins in Starbucks' request for assignment to Business Court.

EXHIBIT A

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 10-CA-300921	Date Filed 8/8/2022

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Starbucks Corporation		b. Tel. No. 208-318-2212
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 2401 Utah Avenue South, Suite 800 Seattle, WA 98134 4686 Clemson Blvd., Anderson, SC 29621	e. Employer Representative Howard Schultz, CEO Nicole Davis District Manager nidavis@gmail.com	g. e-mail hschultz@starbucks.com
		h. Number of workers employed 25
i. Type of Establishment (factory, mine, wholesaler, etc.) Coffee shop	j. Identify principal product or service Food and beverage	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

In the past six months, the above-named Employer, by its officers, agents, and representatives, has violated the Act by:

On or about August 6, 2022, Starbucks suspended or effectively suspended Union leaders and supporters, prohibited them from working in other Starbucks locations, banned them from entering all Starbucks locations, reported them to police, and closed the store's operation in retaliation for workers' protected concerted activity. Starbucks failed to give the Union notice or an opportunity to bargain over any of these actions.

The Union seeks expedited injunctive relief under Section 10(j) of the Act to prevent irreparable destruction of employee rights.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Workers United, Southern Regional Joint Board

4a. Address (Street and number, city, state, and ZIP code) 1777 Phoenix Parkway, Suite 230, Atlanta, GA 30349	4b. Tel. No. 770-306-8856
	4c. Cell No.
	4d. Fax No.
	4e. e-mail baumann2468@gmail.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

Workers United, a/w SEIU

6. DECLARATION

I declare that I have read the above charge and that the statements
are true to the best of my knowledge and belief.

Ian Hayes, Attorney

(signature of representative or person making charge)

(Print/type name and title or office, if any)

Tel. No.
716-608-3427

Office, if any, Cell No.

Fax No.

e-mail
ihayes@hayesdolce.com

Hayes Dolce

Address 135 Delaware Ave., Ste. 502, Buffalo, NY 14202

Date Aug 6, 2022

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

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Sep 22 2023

SC Court of Appeals

ELECTRONICALLY FILED - 2023 Sep 22 10:47 AM - ANDERSON - COMMON PLEAS - CASE#2022CP0402159

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Lawton McIntosh

Case No. 2022-CP-04-02159

Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada,
Braden Terrill, and Aneil Tripathi,

Respondents,

v.

Starbucks Corporation and Melissa Morris,

Appellants.

NOTICE OF APPEAL

Appellant Starbucks Corporation appeals the Order of the Honorable R. Lawton McIntosh dated September 1, 2023 denying Appellant's Motion to Dismiss or, in the Alternative, Compel Arbitration, and the Order of the Honorable R. Lawton McIntosh dated September 15, 2023 denying Appellant's Motion for Reconsideration. Copies of the Orders against which this appeal is made are attached hereto as **Exhibit A**.

LITTLER MENDELSON, P.C.

/s/ William H. Foster

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September 22, 2023

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Counsel for Defendant Melissa Morris

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SC Court of Appeals

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2022-CP-04-02159

Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada,
Braden Terrill, and Aneil Tripathi,

Respondent,

v.

Starbucks Corporation and Melissa Morris,

Appellants.

PROOF OF SERVICE

The undersigned certifies that on the 22nd day of September, 2023, she served a copy of the foregoing Notice of Appeal in the above-captioned matter to all counsel of record, by electronic mail and by placing a copy in the United States Mail, with due and proper postage affixed thereto, as addressed below:

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Appearing Pro Hac Vice

Counsel for Respondents



Sonya Good

Legal Assistant to William H. Foster

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SC Court of Appeals

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September 1, 2023 Order

Denying Starbucks' Motion to

Compel Arbitration

CA. No. 2022-CP-04-02159

State of South Carolina	)	IN THE COURT OF COMMON PLEAS
	)	
County of Anderson	)	Case No.: 2022-CP-04-02159
	)	
Skylar Blume, Virgil Dowis, Rhi Greer,	)	
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, & Aneil Tripathi,	)	
	)	
Plaintiffs,	)	
v.	)	
	)	
Starbucks Corporation & Melissa Morris,	)	
	)	
Defendants.	)	

ORDER

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Sep 22 2023

SC Court of Appeals

This case was brought by Plaintiffs, eight current or former employees of a Starbucks store in Anderson, South Carolina, asserting claims for defamation and abuse of process against Defendants Starbucks Corporation (“Starbucks”) and Melissa Morris (“Morris”) (Starbucks and Morris collectively the “Defendants”). On April 7, 2023, Starbucks filed a motion to dismiss or compel arbitration pursuant to an arbitration agreement between Plaintiffs and Starbucks. Morris joined in this Motion on June 2, 2023. The Court received memoranda in support of the motion from Starbucks Corporation and Morris, a memorandum in opposition from Plaintiffs, and a reply memorandum from Starbucks. The Court also heard oral arguments on June 14, 2023. Based on the parties’ submissions, arguments of counsel, and for the reasons set forth below, Defendants’ motions are **DENIED**.

Defendants have waived the right to compel arbitration. Defendants waited several months to seek to arbitrate Plaintiffs’ claims, and in the meantime have taken advantage of this Court’s processes by filing a motion to dismiss on another ground and a motion to transfer this case to the Business Court. Only after Defendants’ motion to transfer this case to the Business Court was denied did they file the present motion seeking arbitration. This conduct constitutes waiver because

it creates a “reasonable inference . . . that the [party] does not stand upon its right.” *Lawrimore*, 276 S.C. at 118, 276 S.E. 2d at 299 (S.C. 1981) (quoting *Williams v. Philadelphia Life Ins. Co.*, 112 S.C. 436, 447, 100 S.E. 157, 160 (S.C. 1919)). *See also Morgan v. Sundance, Inc.*, 142 S. Ct. 1708 (2022) (holding that courts must apply to arbitration agreements the same test that applies to waiver of other contractual rights or defenses).

Even if Defendants had not waived their right to compel arbitration, the Court would deny their motions because Plaintiffs’ claims are not arbitrable under the agreement. The agreement only covers claims “related” to “employment.” But here, Plaintiffs do not pursue an employment claim, nor do their claims turn on their employment status at Starbucks. As the South Carolina Court of Appeals has held, even the most broadly worded arbitration agreement between an employee and employer does not apply to claims that “do not truly relate to [the employee’s] employment.” *Davis v. ISCO Industries, Inc.*, 434 S.C. 488, 499, 864 S.E.2d 391, 397 (S.C. Ct. App. 2021). Similarly, the South Carolina Supreme Court has held that arbitration agreements do not apply to “wholly unexpected tortious conduct” that a party to the agreement “could not possibly have foreseen” in the course of “normal business dealings.” *Aiken v. World Finance Corp. of S.C.*, 373 S.C. 144, 151, 644 S.E.2d 705, 709 (S.C. 2007). I find that when Plaintiffs started working at Starbucks, they could not have anticipated that the claims asserted in this action would be subject to arbitration.

For the first time in reply, Starbucks claims that a delegation clause in the arbitration agreement requires the Court to allow an arbitrator to decide these issues. The Court disagrees. By raising this argument for the first time on reply, Starbucks waived this argument. *See Bochette v. Bochette*, 300 S.C. 109, 112, 386 S.E. 2d 475, 577 (S.C. Ct. App. 1989) (holding that a litigant “may not use either oral argument or the reply brief as a vehicle to argue issues not argued” in the

initial brief). Even if Starbucks had properly raised this argument, “the issue of waiver of arbitration through litigation is one for the court to decide rather than arbitrators.” *Samuel v. Schumacher Homes of S.C.*, Unpublished Opinion No. 2022-UP-148, 2022 BL99863 (S.C. Ct. App. Mar. 23, 2022).

Moreover, the agreement does not “clear[ly] and unmistakabl[y]” delegate questions of arbitrability to an arbitrator. *Doe v. TCSC, LLC*, 430 S.C. 602, 608, 846 S.E.2d 874, 877 (S.C. Ct. App. 2020). That is because “the arbitration agreement excludes ‘(c) actions to enforce this Agreement, compel arbitration, [or] compel arbitration.’” *Wilson v. Starbucks Corp.*, 385 F. Supp. 3d 557, 561 (E.D. Ky. 2019). As the adjudication of the present motion constitutes a “civil action to compel arbitration,” it is excluded from the arbitration agreement. *Id.* (quotation marks omitted). As such, this Court possesses the authority to determine whether the claims asserted in the Complaint are subject to and governed by the Arbitration Agreement.

Accordingly, Defendants’ motions to dismiss or compel arbitration are **DENIED**.

IT IS SO ORDERED.

R. Lawton McIntosh
Tenth Judicial Circuit

August ____, 2023

Anderson, South Carolina



Anderson Common Pleas

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris , defendant, et al

Case Number: 2022CP0402159

Type: Order/Dismissal

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2023-09-01 08:19:27 page 4 of 4

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Certificate of Electronic Notification

Recipients

Hannah Stetson - Notification transmitted on 09-01-2023 09:13:21 AM.

Benjamin Hepner - Notification transmitted on 09-01-2023 09:13:21 AM.

William Foster - Notification transmitted on 09-01-2023 09:13:21 AM.

Matthew Ozment - Notification transmitted on 09-01-2023 09:13:21 AM.

Katie Towery - Notification transmitted on 09-01-2023 09:13:21 AM.

Reginald Belcher - Notification transmitted on 09-01-2023 09:13:21 AM.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

-

A filing has been submitted to the court RE: 2022CP0402159

Official File Stamp: 09-01-2023 09:11:13 AM

Court: CIRCUIT COURT

Common Pleas

Anderson

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris ,
defendant, et al

Document(s) Submitted: Order/Dismissal DENIED Order/Dismissal

Filed by or on behalf of: R. Lawton McIntosh

This notice was automatically generated by the Court's auto-notification system.

-

The following people were served electronically:

Hannah Davis Stetson for Melissa Morris

Reginald Wayne Belcher for Melissa Morris

William Harrell Foster, III for Starbucks
Corporation

Katie Elizabeth Towery for Starbucks Corporation

Benjamin Tradd Hepner for Starbucks
Corporation

Matthew R Ozment for Skylar Blume et al

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

Michael P Ellement for Skylar Blume, Rhi Greer,
Virgil Dowis, Aneil Tripathi, Branden Terrill, Mya
Ourada, Natalie Mann, Jonathan Hudson

Richard P Ruoco for Skylar Blume, Rhi Greer,
Virgil Dowis, Aneil Tripathi, Branden Terrill, Mya
Ourada, Natalie Mann, Jonathan Hudson

Daniel M Rosenthal for Skylar Blume, Rhi Greer,
Virgil Dowis, Aneil Tripathi, Branden Terrill, Mya
Ourada, Natalie Mann, Jonathan Hudson

Mary Jo Carlson for Skylar Blume, Rhi Greer,
Virgil Dowis, Aneil Tripathi, Branden Terrill, Mya
Ourada, Natalie Mann, Jonathan Hudson

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Sep 22 2023

SC Court of Appeals

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September 15, 2023 Order

Denying Starbucks' Motion to

Reconsider Order Denying

Starbucks' Motion to Compel

Arbitration

CA. No. 2022-CP-04-02159

STATE OF SOUTH CAROLINA
COUNTY OF Anderson
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP0402159

Skylar Blume et al
PLAINTIFF(S)

Melissa Morris et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Defendants Starbucks Corporation and Melissa Morris' motions for reconsideration of the courts order denying motion to dismiss, or, in the alternative, compel arbitration, are denied without the necessity of a formal hearing. No formal order is required by the court unless counsel for either party requests one. In the event that a formal order is requested, Plaintiffs counsel is to prepare the formal order.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/15/2023 .

Michael P Ellement for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson
Richard P Ruoco for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson
Daniel M Rosenthal for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson
Mary Jo Carlson for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

RECEIVED

Sep 22 2023

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Anderson Common Pleas

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris , defendant, et al

Case Number: 2022CP0402159

Type: Order/Electronic Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

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FILED ELECTRONICALLY FILED - 2023 SEP 25 10 38 AM - ANDERSON - COMMON PLEAS - CASE#2022CP0402159

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2022-CP-04-02159

Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada,
Braden Terrill, and Aneil Tripathi,

Respondents,

v.

Melissa Morris,

Appellant.

NOTICE OF APPEAL

Appellant Melissa Morris appeals the Order of the Honorable R. Lawton McIntosh dated September 1, 2023 denying Respondent's Motion to Dismiss or, in the Alternative, Compel Arbitration, and the Order of the Honorable R. Lawton McIntosh dated September 15, 2023 denying Appellant's Motion for Reconsideration. Appellant received written notice of entry of these Orders on September 1, 2023, and September 15, 2023, respectively. Copies of the Orders against which this appeal is made are attached hereto as **Exhibit A**.

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September 22, 2023

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2022-CP-04-02159

Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson, Natalie Mann, Mya Ourada,
Braden Terrill, and Aneil Tripathi,

Respondents,

v.

Melissa Morris,

Appellant.

PROOF OF SERVICE

The undersigned hereby certifies that on the 22nd day of September, 2023, she served a copy of the foregoing Notice of Appeal in the above-captioned matter to all counsel of record, by electronic mail and by placing a copy in the United States Mail, with due and proper postage affixed thereto, as addressed below:

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Margaret H. Smith

Margaret H. Smith
Legal Assistant to Reginald W. Belcher

State of South Carolina	)	IN THE COURT OF COMMON PLEAS
	)	
County of Anderson	)	Case No.: 2022-CP-04-02159
Skylar Blume, Virgil Dowis, Rhi Greer,	)	
Jonathan Hudson, Natalie Mann, Mya	)	
Ourada, Braden Terrill, & Aneil Tripathi,	)	
	)	
Plaintiffs,	)	
v.	)	
	)	
Starbucks Corporation & Melissa Morris,	)	
	)	
Defendants.	)	

ORDER

RECEIVED

Sep 22 2023

SC Court of Appeals

This case was brought by Plaintiffs, eight current or former employees of a Starbucks store in Anderson, South Carolina, asserting claims for defamation and abuse of process against Defendants Starbucks Corporation (“Starbucks”) and Melissa Morris (“Morris”) (Starbucks and Morris collectively the “Defendants”). On April 7, 2023, Starbucks filed a motion to dismiss or compel arbitration pursuant to an arbitration agreement between Plaintiffs and Starbucks. Morris joined in this Motion on June 2, 2023. The Court received memoranda in support of the motion from Starbucks Corporation and Morris, a memorandum in opposition from Plaintiffs, and a reply memorandum from Starbucks. The Court also heard oral arguments on June 14, 2023. Based on the parties’ submissions, arguments of counsel, and for the reasons set forth below, Defendants’ motions are **DENIED**.

Defendants have waived the right to compel arbitration. Defendants waited several months to seek to arbitrate Plaintiffs’ claims, and in the meantime have taken advantage of this Court’s processes by filing a motion to dismiss on another ground and a motion to transfer this case to the Business Court. Only after Defendants’ motion to transfer this case to the Business Court was denied did they file the present motion seeking arbitration. This conduct constitutes waiver because

it creates a “reasonable inference . . . that the [party] does not stand upon its right.” *Lawrimore*, 276 S.C. at 118, 276 S.E. 2d at 299 (S.C. 1981) (quoting *Williams v. Philadelphia Life Ins. Co.*, 112 S.C. 436, 447, 100 S.E. 157, 160 (S.C. 1919)). See also *Morgan v. Sundance, Inc.*, 142 S. Ct. 1708 (2022) (holding that courts must apply to arbitration agreements the same test that applies to waiver of other contractual rights or defenses).

Even if Defendants had not waived their right to compel arbitration, the Court would deny their motions because Plaintiffs’ claims are not arbitrable under the agreement. The agreement only covers claims “related” to “employment.” But here, Plaintiffs do not pursue an employment claim, nor do their claims turn on their employment status at Starbucks. As the South Carolina Court of Appeals has held, even the most broadly worded arbitration agreement between an employee and employer does not apply to claims that “do not truly relate to [the employee’s] employment.” *Davis v. ISCO Industries, Inc.*, 434 S.C. 488, 499, 864 S.E.2d 391, 397 (S.C. Ct. App. 2021). Similarly, the South Carolina Supreme Court has held that arbitration agreements do not apply to “wholly unexpected tortious conduct” that a party to the agreement “could not possibly have foreseen” in the course of “normal business dealings.” *Aiken v. World Finance Corp. of S.C.*, 373 S.C. 144, 151, 644 S.E.2d 705, 709 (S.C. 2007). I find that when Plaintiffs started working at Starbucks, they could not have anticipated that the claims asserted in this action would be subject to arbitration.

For the first time in reply, Starbucks claims that a delegation clause in the arbitration agreement requires the Court to allow an arbitrator to decide these issues. The Court disagrees. By raising this argument for the first time on reply, Starbucks waived this argument. See *Bochette v. Bochette*, 300 S.C. 109, 112, 386 S.E. 2d 475, 577 (S.C. Ct. App. 1989) (holding that a litigant “may not use either oral argument or the reply brief as a vehicle to argue issues not argued” in the

initial brief). Even if Starbucks had properly raised this argument, “the issue of waiver of arbitration through litigation is one for the court to decide rather than arbitrators.” *Samuel v. Schumacher Homes of S.C.*, Unpublished Opinion No. 2022-UP-148, 2022 BL99863 (S.C. Ct. App. Mar. 23, 2022).

Moreover, the agreement does not “clear[ly] and unmistakabl[y]” delegate questions of arbitrability to an arbitrator. *Doe v. TCSC, LLC*, 430 S.C. 602, 608, 846 S.E.2d 874, 877 (S.C. Ct. App. 2020). That is because “the arbitration agreement excludes ‘(c) actions to enforce this Agreement, compel arbitration, [or] compel arbitration.’” *Wilson v. Starbucks Corp.*, 385 F. Supp. 3d 557, 561 (E.D. Ky. 2019). As the adjudication of the present motion constitutes a “civil action to compel arbitration,” it is excluded from the arbitration agreement. *Id.* (quotation marks omitted). As such, this Court possesses the authority to determine whether the claims asserted in the Complaint are subject to and governed by the Arbitration Agreement.

Accordingly, Defendants’ motions to dismiss or compel arbitration are **DENIED**.

IT IS SO ORDERED.

R. Lawton McIntosh
Tenth Judicial Circuit

August ____, 2023

Anderson, South Carolina



Anderson Common Pleas

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris , defendant, et al

Case Number: 2022CP0402159

Type: Order/Dismissal

S/R. LAWTON McINTOSH

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FILED ELECTRONICALLY FILED - 2023 SEP 22 10 13 AM - ANDERSON - COMMON PLEAS - CASE#2022CP0402159

STATE OF SOUTH CAROLINA
COUNTY OF Anderson
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP0402159

Skylar Blume et al
PLAINTIFF(S)

Melissa Morris et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Defendants Starbucks Corporation and Melissa Morris' motions for reconsideration of the courts order denying motion to dismiss, or, in the alternative, compel arbitration, are denied without the necessity of a formal hearing. No formal order is required by the court unless counsel for either party requests one. In the event that a formal order is requested, Plaintiffs counsel is to prepare the formal order.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/15/2023 .

Michael P Ellement for Skylar Blume,Rhi Greer,Virgil Dowis,Aneil Tripathi,Branden Terrill,Mya Ourada,Natalie Mann,Jonathan Hudson
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NAMES OF TRADITIONAL FILERS SERVED BY MAIL **Sep 22 2023**

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Anderson Common Pleas

Case Caption: Skylar Blume , plaintiff, et al VS Melissa Morris , defendant, et al

Case Number: 2022CP0402159

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S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

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Apr 19 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
The Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No.2023-001506
Case No. 2022-CP-04-02159

Skylar Blume, Virgil Dowis, Rhi Greer, Jonathan Hudson,
Natalie Mann, Mya Ourada, Braden Terrill, & Aneil Tripathi Respondents,

v.

Starbucks, Inc. and Melissa Morris,..... Appellants,

CERTIFICATE OF COUNSEL FOR THE RECORD ON APPEAL

The undersigned certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

(Signature Page Follows)

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April 10, 2024