STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DORCHESTER	)	CIVIL ACTION NO.: 2023-CP-18-00758
JAMES GRAHAM, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF PHYLLIS CHESTNUT, Plaintiff, v. HALLMARK LONG TERM CARE, LLC D/B/A HALLMARK HEALTHCARE CENTER, FUNDAMENTAL LONG TERM CARE, INC., THI OF SOUTH CAROLINA, LLC, THI OF BALTIMORE, INC., HUNT VALLEY HOLDINGS, LLC, FUNDAMENTAL ADMINISTRATIVE SERVICES, LLC, FUNDAMENTAL CLINICAL AND OPERATIONAL SERVICES, LLC, FUNDAMENTAL CLINICAL CONSULTING, LLC, and CURANA HEALTH OF SOUTH CAROLINA, P.C. F/K/A ELITE PATIENT CARE OF SOUTH CAROLINA, PC Defendants.	)	**ORDER**

This matter came before the Court on September 4, 2024, on a Motion to Compel Arbitration filed by Defendant Hallmark Operating, LLC d/b/a Hallmark Healthcare Center ("Hallmark") and Motions to Stay this action filed by Defendants Hallmark Operating, LLC d/b/a Hallmark Healthcare Center, THI of South Carolina, LLC, THI of Baltimore, LLC, Hunt Valley Holdings, LLC, Fundamental Administrative Services, LLC, Fundamental Clinical and Operational Services, LLC, and Fundamental Clinical Consulting, LLC ("collectively Defendants"). The Motion to Compel Arbitration was brought pursuant to the Federal Arbitration Act, 9 U.S.C. §§ 1 *et seq*. and Rules 12(b)(1) and 12(b)(6) of the South Carolina Rules of Civil Procedure. The Motions to Stay sought to stay any requirements to file any further responsive pleadings or to respond to any motions or

discovery filed or served by Plaintiff James Graham as the Personal Representative of the Estate of Phyllis Chestnut until the Motion to Compel Arbitration and any subsequent appellate or arbitration proceedings are resolved. Present at the hearing and arguing on behalf of Defendants was Russell G. Hines. Appearing and arguing on behalf of Plaintiff was John E. Parker, Jr.

After reviewing the submissions of the parties, the pleadings, and hearing the arguments of counsel, the Court DENIES Defendants' Motions in part and GRANTS the Motions in part for the reasons set forth herein.

Plaintiff filed this action on May 15, 2023, in the Dorchester County Court of Common Pleas, alleging that the Decedent passed away due to inadequate care while she was a resident of Defendants' facility. Plaintiff has alleged wrongful death and survival claims as a result of the care and treatment provided to the Decedent, Ms. Phyllis Chestnut. The basis of the Motion to Compel Arbitration is that a valid and enforceable arbitration agreement (the "Arbitration Agreement") exists between Ms. Chestnut and Hallmark. However, Plaintiff argues that Ms. Chestnut did not have authority to waive the wrongful death beneficiaries' rights to a jury trial at the time she entered the Arbitration Agreement. The Arbitration Agreement relied upon by Defendants was signed by Ms. Chestnut at the time of her admission to Defendants' facility. Ms. Chestnut was the mother of her Estate's Personal Representative, Mr. James Graham, and two other adult children, and Plaintiff argues that even though she had authority to enter the Agreement on her own behalf and on behalf of the Estate at the time of admission, she did not have authority to enter any such agreement on her adult children's behalf as wrongful death beneficiaries, and therefore, the wrongful death claims are not arbitrable.

Plaintiff additionally argues that South Carolina law is clear that only the representations and conduct of the principal, and not the actions of the agent, can create the agency relationship, and that there is no evidence that the wrongful death beneficiaries or Mr. Graham as Personal

Representative of Ms. Chestnut's Estate ever represented to Defendants that Ms. Chestnut had authority to act on their behalf and waive the wrongful death beneficiaries' rights to a jury trial. Defendants, on the other hand, argue that the Arbitration Agreement applies with equal force to the wrongful death claims as it does to the Estate's survival claim because the wrongful death claim does not belong to the wrongful death beneficiaries, and that any rule prohibiting enforcement of an agreement to arbitrate wrongful death claims would violate the FAA's equal footing principle as articulated in *Marmet Health Care Ctr., Inc. v. Brown*, 565 U.S. 530, 532-33, 132 S. Ct. 1201, 1203-04, 182 L. Ed. 2d 42 (2012).

The Court disagrees with Defendants' position. While a signed Arbitration Agreement exists in this case, it is not a valid, enforceable agreement against the statutory beneficiaries' and Personal Representative's wrongful death claims for the simple reason that Ms. Chestnut did not have authority to execute the Arbitration Agreement on their behalf at the time the Arbitration Agreement was entered. By statute, the wrongful death claims belong to and are for the benefit of the Personal Representative and the remaining wrongful death beneficiaries, and not the Estate or the Decedent. There is no evidence that Ms. Chestnut had actual or apparent authority to act on the Personal Representative's and remaining wrongful death beneficiaries' behalf at the time she entered the Arbitration Agreement, as there is no evidence that they ever consciously represented or implied to Defendants that Ms. Chestnut was their agent for the purposes of entering an arbitration agreement.

Public policy favors arbitration, but only to the extent that it would aid in interpreting the scope and enforcement of validly entered arbitration agreements. *See, e.g., Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 24-25, 103 S. Ct. 927, 74 L. Ed. 2d 765 (1983) ("The Arbitration Act establishes that, as a matter of federal law, any doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration . . . ."). The public policy has no

relevance to an analysis of arbitrability until a court first determines a valid agreement to arbitrate exists. *Weaver v. Brookdale Senior Living, Inc.*, 431 S.C. 223, 229, 847 S.E.2d 268, 271 (Ct. App. 2020).

The FAA commands that arbitration agreements between parties trading in interstate commerce must be treated the same as all other contracts, no more, no less. *Prima Paint Corp. v. Flood & Conklin Mfg. Co.*, 388 U.S. 395, 404 n.12, 87 S. Ct. 1801, 18 L. Ed. 2d 1270 (1967) ("[T]he purpose of Congress in 1925 was to make arbitration agreements as enforceable as other contracts, but not more so."). "The FAA therefore places arbitration contracts on equal footing with other contracts, but it does not, as Appellants suggest, give the party seeking arbitration a leg up in the threshold determination of whether a valid arbitration agreement exists." *Weaver*, 431 S.C. at 229, 847 S.E.2d at 271-72. In other words, the presumption in favor of arbitration applies only to the scope of an arbitration agreement; "it does not apply to the existence of such an agreement or to the identity of the parties who may be bound to such an agreement." *Wilson v. Willis*, 426 S.C. 326, 337, 827 S.E.2d 167, 173 (2019). "Moreover, because arbitration, while favored, exists solely by agreement of the parties, a presumption *against arbitration* arises where the party resisting arbitration is a nonsignatory to the written agreement to arbitrate." *Id.* (emphasis added). Plaintiff has challenged the identity of parties who may be bound to the Arbitration Agreement, and therefore there is no presumption in favor of arbitration under this Court's analysis.

The wrongful death claim of a statutory beneficiary is not as a matter of law subject to arbitration when the decedent has previously signed an arbitration agreement. South Carolina law indicates that wrongful death claims are for the benefit of the statutory beneficiaries, may only be brought by the personal representative of the decedent's estate, and are distinct and separate from survival claims personal to the decedent and subsequently to the estate. *Bennett v. Spartanburg*

Ry. Gas and Elec. Co., 97 S.C. 27, 81 S.E. 189, 190 (1914). Wrongful death actions are brought by the personal representative of the decedent directly for the benefit of the statutory beneficiaries and include compensatory damages for pecuniary loss, mental shock and suffering, grief and sorrow, and loss of companionship: all losses suffered by the beneficiaries themselves. S.C. Code Ann. §§ 15-51-10 and -20; *Self v. Goodrich*, 300 S.C. 349, 351, 387 S.E.2d 713, 714 (Ct. App. 1989). Survival actions, on the other hand, are separate claims for injuries to the decedent, and belong to the estate, not the statutory beneficiaries. *See Bennett*, 97 S.C. at 27, 81 S.E. at 189-90. In a chapter devoted to wrongful death claims, a section of *South Carolina Jurisprudence* entitled "[s]eparate, independent cause of action" notes the existence of two claims at the tortious death of a person and, crucially, "*the wrongful death action and the survival action involve different, independent claims*." 28 S.C. Jur. *Wrongful Death* § 5 (emphasis added).

Therefore, wrongful death claims, while they are brought by the personal representative of an estate, do not "belong" solely to the personal representative of an estate or the decedent, and instead are a right to recovery vesting with the statutory beneficiaries themselves. This right directly arises from the wrongful death statute. The wrongful death claim is not derivative of claims belonging to the decedent; ergo, the decedent would not have authority to waive jury trial rights belonging to statutory beneficiaries but not herself. To argue otherwise would mistakenly conflate the wrongful death claim and survival claims. The history and development of South Carolina's wrongful death and survival statutes shows that wrongful death is something entirely different from the survival of tort claims after an individual's death. South Carolina courts have long recognized that these are two disparate theories of liability with distinct origins, purposes, and results. *See Grainger v. Greenville, S. & A. Ry. Co.*, 101 S.C. 399, 85 S.E. 968, 969 (1915). The statutory scheme shows wrongful death and survival are distinct claims accruing at different times and are governed by different statutes of limitation. *See* S.C. Code Ann. § 15-3-560(6).

Defendants argue that wrongful death claims are derivative of survival claims. In both types of claims, the decedent's personal representative is the named plaintiff. *Complete Auto Transit, Inc. v. Bass*, 229 S.C. 607, 612, 93 S.E.2d 912, 914 (1956). However, this fact alone is not determinative of any derivative nature the wrongful death claim may have. When asserting wrongful death and survival claims, a personal representative "function[s] under two separate and distinct trusteeships." *Id.* In other words, while it is the personal representative's name in the caption for a wrongful death claim, "it is clear . . . the real parties to the action were the beneficiaries." *Claussen v. Brothers*, 148 S.C. 1, 145 S.E. 539, 541 (1928).

In light of the history and structure of wrongful death and survival claims, a number of other reported opinions have rejected the notion that the former is derivative of the latter. As early as 1907, the South Carolina Supreme Court recognized a wrongful death action is not the survival of an action which the deceased had in his lifetime but is a "new cause of action" arising after his death. *Osteen v. Southern Ry., Carolina Division*, 76 S.C. 368, 57 S.E. 196, 200 (1907). *Claussen* held a wrongful death claim is "not a continuation" of any claim the decedent had before her death. *Claussen*, 145 S.E. at 540. And contrary to the proposition that wrongful death claims belong to the personal representative or the decedent's estate, *Claussen* states that "as has been pointed out, the party in whose favor the right of action in reality exists under Lord Campbell's Act *is not the personal representative of the deceased person.*" *Id.* at 541 (emphasis added).

A wrongful death claim is "independent" of claims the decedent had during his life and "wholly different" than any other claim available at his death. *Wellman v. Bethea*, 243 F. 222 (E.D.S.C. 1917); *In re Mayo's Estate*, 60 S.C. 401, 38 S.E. 634, 638 (1901). Wrongful death and survival claims are "separable and distinct." *Keel v. Seaboard Air Line Ry.*, 122 S.C. 17, 114 S.E. 761, 762 (1922). In sum, wrongful death claims are not derivative of survival claims and do not belong to the decedent or her estate's personal representative, namely because "[t]he object, scope,

and measure of damages" is different for the two claims, regardless of whether the claim is brought by the personal representative. *In re Mayo's Estate*, 38 S.E. at 638. South Carolina's appellate courts have held wrongful death claims are "distinct," "independent," "separate," "wholly different," and "not a continuation" of claims a decedent could have filed during her lifetime. In other words, wrongful death is a distinct, independent claim that solely belongs to the statutory beneficiaries. It is anything but a derivative claim, therefore, a decedent must derive any authority to act on the behalf of the wrongful death beneficiaries in agreeing to arbitrate their claims not from the wrongful death statute and the nature of the claim, but from some other source of actual or apparent authority.

Defendants argue that under the equal footing principle, the Court is precluded from invalidating the Arbitration Agreement based on any legal rule that applies "only to arbitration", citing *Dean v. Heritage Healthcare of Ridgeway, LLC*, 408 S.C. 371, 759 S.E.2d 727 (2014). *Dean* briefly addresses the arbitrability of wrongful death claims in a footnote. This footnote addressed an overly broad pronouncement by the trial court suggesting wrongful death claims are categorically excluded from arbitration. *Id.* (citing circuit court order statement stating that "wrongful death actions are not something that's arbitrated"). Clearly, that type of rule would violate the FAA's equal footing principle. *Id.* (citing *Marmet*, 565 U.S. at 532-33, 132 S. Ct. at 1203-04); *see also Kindred Nursing Ctrs., Ltd. P'ship v. Clark*, 581 U.S. 246, 251, 137 S. Ct. 1421, 1426, 197 L. Ed. 2d 806 (2017). However, that is not the argument Plaintiff makes here. Plaintiff has agreed that a wrongful death claim may be arbitrable in instances where the statutory beneficiaries explicitly agree to do so.[1] Any of the statutory beneficiaries, including Mr. Graham,

[1] The Court notes that even if a personal representative, as the individual statutorily authorized to bring the wrongful death claim, could waive the wrongful death beneficiaries' right to a jury trial, he would only have the right to do so while acting in his capacity as personal representative. At the time a decedent enters an arbitration agreement, the decedent is still living and has not had a personal representative appointed so there is no realistic probability that this scenario could ever occur.

could have individually agreed to waive their rights to a jury trial on their wrongful death claims. Here, Plaintiff simply argues a *decedent's* consent to arbitrate may not be grafted into a wrongful death claim that pays different people for different losses when she does not have authority to act on their behalf. *Dean* does not reject that argument or even consider it. And here, Plaintiff is not arguing that Ms. Chestnut's lack of authority applies "only to arbitration"; Plaintiff's argument is that Ms. Chestnut did not have authority to bind the wrongful death beneficiaries to any agreement, much less an agreement to arbitrate their claims.

Several other courts have held that rejecting arbitration for wrongful death claims in similar cases does not violate *Marmet* or any other Supreme Court precedent on the equal footing principle.[2] Refusing to compel arbitration here does not mean wrongful death claims can categorically never be arbitrated. Instead, as other courts have recognized, it simply means the Defendants have failed to satisfy a generally applicable contract law rule because they have not demonstrated they had consent for arbitration from all of the proper parties. Finally, reading *Dean*'s footnote to have any bearing on the parties' dispute does not adequately account for either side's arguments on the key issue. *Dean* had no reason to undertake this analysis and has nothing to offer the Court on the Motion to Compel Arbitration.

Defendants argue that since S.C. Code Ann. § 15-51-10 permits wrongful death claims only when the decedent would have had a claim if she survived, then the wrongful death claim is derivative and the decedent, or the estate's personal representative, has the authority to waive the statutory beneficiaries' right to a jury trial, relying on *Quattlebaum v. Carey Canada, Inc.*, 685 F.

[2] *See Carter v. SSC Odin Operating Co., LLC*, 976 N.E.2d 344, 360 (Ill. 2012) (unlike *Marmet*, Illinois was not applying a categorical anti-arbitration rule but was rather applying "common law principles governing all contracts"); *Vickers v. Canal Pointe Nursing Home & Rehab Ctr.*, 2016-Ohio-3244, 2016 WL 3080329 (Ohio App. June 1, 2016) (finding that Ohio Supreme Court precedent preventing arbitration of wrongful death claims did not create a categorical ban that would run afoul of *Marmet* because it applied generally applicable contract law rule against enforcing contract against person who had not assented).

Supp. 939 (D.S.C. 1988) and *Estate of Stokes ex rel. Spell v. Pee Dee Family Physicians, L.L.P.*, 389 S.C. 343, 699 S.E.2d 143 (2010). The logic of this argument appears to be that because the decedent or a personal representative has the ability to permit the beneficiaries' right to recovery under the Wrongful Death Act to lapse with the statute of limitations, then the decedent or personal representative also must have the ability to waive the beneficiaries' right to a jury trial by signing an arbitration agreement. However, *Quattlebaum* (and *Stokes*) did not address arbitration at all. Instead, they simply held that if an individual allows the statute of limitations on a personal injury claim to lapse during his life, then a wrongful death claim may not be used after his death to "revive" the stale claim. *Stokes*, 389 S.C. at 349, 699 S.E.2d at 146.

The statute of limitations is not at issue here and neither *Quattlebaum* nor *Stokes* have ever been cited as justification for binding nonsignatories to an arbitration contract or imputing authority to a decedent. Plus, the legal authority holding that an individual may forfeit a wrongful death claim by ignoring or settling a personal injury suit during his life does not mean the individual, or someone acting on his behalf, has authority to waive a nonsignatory's rights. Several courts have made this distinction explicitly. Oklahoma, like South Carolina, bars a wrongful death suit if the decedent ended a personal injury claim during his lifetime based on the same wrongdoing. *Boler v. Sec. Health Care, L.L.C*, 2014 OK 80, 336 P.3d 468, 477 (Okla. 2014) (citing *Haws v. Luethje*, 1972 OK 146, 503 P.2d 871 (Okla. 1972)). Even so, the court in *Boler* refused to apply a nursing home resident's arbitration contract to a wrongful death claim because doing so would violate contract principles requiring mutual assent. *Id.* at 471.

Pennsylvania also bars wrongful death claims if the decedent allowed his personal injury claim to lapse. *Pisano v. Extendicare Homes, Inc.*, 77 A.3d 651, 657 (Pa. Super. Ct. 2013) (citing *Moyer v. Rubright*, 651 A.2d 1139 (Pa. Super. Ct. 1994)). Yet, just like Oklahoma, Pennsylvania does not extrapolate from that rule the notion that an individual can bind other wrongful death

beneficiaries to arbitration. *Pisano*, 77 A.3d at 657, 662 (refusing to find wrongful death beneficiaries lost jury trial right "where they did not waive it of their own accord"). Thus, *Quattlebaum*'s, and by extension, *Stoke*'s, interpretation of section 15-51-10 does not necessarily require arbitration in this case. Had Ms. Chestnut settled any claims against the Defendants before her death, or if the statute of limitations had lapsed on her negligence claim, the Estate's Personal Representative could not now bring a wrongful death claim on behalf of the statutory beneficiaries because under section 15-51-10, there would not be an action the decedent could have maintained if death had not ensued. But it does not logically follow that Ms. Chestnut in her individual capacity had the ability to direct the wrongful death claims to arbitration on behalf of the wrongful death beneficiaries when she did not have authority to do so. Since Ms. Chestnut had a viable dispute with the Defendant when she died, any proposed arbitration of the wrongful death claim must consider whether all beneficiaries agreed to waive a jury trial such that there is mutual assent.

In light of the historical and structural differences between South Carolina's wrongful death and survival statutes, and the remedies afforded by them, as well as substantial case law defining and treating wrongful death and survival claims distinctly, the Court rejects any attempt to use Ms. Chestnut's purported assent to the Arbitration Agreement to force arbitration on the wrongful death beneficiaries. At least a dozen other jurisdictions have rejected such arguments. *See FutureCare NorthPoint, LLC v. Peeler*, 143 A.3d 191, 209-10, 213 (Md. App. 2016); *Taylor v. Extendicare Health Facilities, Inc.*, 147 A.3d 490, 494 n. 1 (Pa. 2016) (citing *Pisano v. Extendicare Homes, Inc.*, 77 A.3d 651, 660 (Pa. Super. 2013)); *Boler v. Sec. Health Care, LLC*, 336 P.3d 468, 477 (Okla. 2014); *Estate of Decamacho ex rel. Guthrie v. La Solana Care & Rehab, Inc.*, 316 P.3d 607, 614 (Ariz. Ct. App. 2014); *Daniels v. Sunrise Sr. Living, Inc.*, 212 Cal. App. 4th 674, 151 Cal. Rptr. 3d 273 (2013); *Carter v. SSC Odin Operating Co, LLC*, 976 N.E.2d 344, 355-58 (Ill. 2012); *Ping v. Beverly Enters., Inc.*, 376 S.W.3d 581 (Ky. 2012); *Woodall v. Avalon Care Center-*

Federal Way, LLC, 231 P.3d 1252 (Wash. App. 2010); *Lawrence v. Beverly Manor*, 273 S.W.3d 525 (Mo. 2009); *Bybee v. Abdulla*, 189 P.3d 40 (Utah 2008); *Peters v. Columbus Steel Castings Co.*, 873 N.E.2d 1258, 1262 (Ohio 2007); *Chapman v. Cardiac Pacemakers, Inc.*, 673 P.2d 385 (Idaho 1983); *see also Strickholm v. Evangelical Lutheran Good Samaritan Soc'y*, Case No. 4:11-CV-00059-BLW, 2011 WL 2532395 (D. Idaho June 24, 2011). At best, the Arbitration Agreement only reaches the Estate's survival claim, unless Ms. Chestnut had apparent or actual authority to act on the statutory beneficiaries' behalf. Defendants have not produced any evidence indicating that Ms. Chestnut had actual or apparent authority to enter the Arbitration Agreement on the wrongful death beneficiaries' behalf or to waive their right to a jury trial, nor have they argued that she did.

S.C. Code Ann. § 15-51-20 explicitly provides that the wrongful death action is for the benefit of the wrongful death beneficiaries, and that it may only be brought by the personal representative of the decedent's estate. It does not vest any right to institute a wrongful death action or to benefit from a wrongful death actions' proceeds in the decedent herself. Ms. Chestnut was not the personal representative of her estate at the time she signed the Arbitration Agreement and her Estate did not even exist at that point. She did not have actual authority to waive the statutory beneficiaries' rights to a jury trial under the wrongful death statutes, and there is no evidence the wrongful death beneficiaries, including Mr. Graham, ever represented to Defendants in any capacity that she had authority to act on their behalf. Neither Mr. Graham nor the remaining wrongful death beneficiaries signed the Arbitration Agreement in an individual capacity or as Personal Representative for Ms. Chestnut's Estate, and therefore there is no mutual assent to arbitrate the wrongful death claims.

As to Defendant's Motions to Stay, it is in the Court's discretion whether to stay for considerations of economy and efficiency an entire action, including issues not arbitrable, pending

arbitration. *Moses H. Cone Mem'l Hosp.*, 460 U.S. at 21 n.23, 103 S. Ct. at 939 n. 23 (1983). "A party is only entitled to a stay pursuant to section 3 [of the FAA] as to arbitrable claims or issues," but "[a]s to nonarbitrable claims and issues, . . . the district court has discretion whether to stay the litigation pending arbitration." *Winfrey v. Kmart Corp.*, 692 F. App'x 356, 357 (9th Cir. 2017). Courts generally refuse to stay proceedings of nonarbitrable claims when it is feasible to proceed with the litigation. *See Dean Witter Reynolds Inc.*, 470 U.S. 213, 225, 105 S. Ct. 1238, 1245 (1985) (White, J., concurring).

Hallmark and the remaining Defendants have not demonstrated or argued why a Motion to Stay is justified other than to argue they are entitled to one under 9 U.S.C. § 3 because the entirety of Plaintiff's claims are arbitrable, nor have the remaining Defendants demonstrated as non-parties to the relevant Arbitration Agreement why they are entitled to a stay under 9 U.S.C. § 3, or that it is not feasible to proceed with the litigation. The arbitrable survival claim against Hallmark does not predominate over the remaining nonarbitrable wrongful death and survival claims against all Defendants, and the nonarbitrable claims do not depend on the arbitrator's resolution of the survival claim against Hallmark, as under South Carolina law wrongful death and survival claims are independent, separate, and distinct. The outcome of the arbitration will not have a preclusive effect as to the remaining Defendants, nor would the outcome necessarily have a preclusive effect as to Hallmark or Plaintiff for the entirety of the litigation, as the survival and wrongful death claims have separate and independent categories of damages.

Proceeding with the wrongful death and survival claims against the remaining Defendants and the wrongful death claim against Hallmark in this Court will not destroy the right of Hallmark to a meaningful arbitration of the survival claim, and Defendants have not argued how permitting the nonarbitrable claims to go forward will impair the arbitrator's decision of the lone survival claim against Hallmark. Therefore, balancing the risk of inconsistent rulings, the extent to which

a minority of the issues and parties could be bound by the arbitrator's decision, and the prejudice to Plaintiff that will result from delays, the Court finds these factors do not clearly weigh in favor of staying the entire action. While cognizant of the risk of duplicative proceedings, the Court recognizes the desirability of bringing to a conclusion all the litigation, both arbitrable and nonarbitrable, and to expedite that finality, the Court concludes that the nonarbitrable claims will not be stayed.

Based on the foregoing authorities and findings, the Court DENIES Defendant Hallmark Operating, LLC d/b/a Hallmark Healthcare Center's Motion to Compel Arbitration in part as to Plaintiff's wrongful death claims and GRANTS Hallmark's Motion to Compel Arbitration in part as to Plaintiff's survival claim and DENIES Hallmark's Motion to Stay. The Court consequently DENIES the remaining Defendants' Motions to Stay.

THEREFORE, it is ORDERED that Defendant Hallmark Operating, LLC d/b/a Hallmark Healthcare Center's Motion to Compel Arbitration is DENIED in part as to Plaintiff's wrongful death claims and is GRANTED in part as to Plaintiff's survival claim, and the remaining Motions to Stay are DENIED.

IT IS SO ORDERED.

_____
The Honorable Maite Murphy

November ____, 2024
St. George, South Carolina

Dorchester Common Pleas

Case Caption: James Graham , plaintiff, et al VS Hallmark Long Term Care Llc , defendant, et al

Case Number: 2023CP1800758

Type: Order/Other

So Ordered

s/ Maite Murphy 2166