

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	FIFTH JUDICIAL CIRCUIT
)	
Linda Plaag and Robert Plaag,)	Civil Action No. 2024-CP-40-6968
)	
Plaintiffs,)	
)	
vs.)	
)	
Charles Oliver, Leanna Oliver, Davis)	
Oliver, Devin Patel, Foundations)	
Investment Advisors, LLC, Strategic)	
Equity Energy, LLC, Strategic Equity)	
Path GP, LLC, Hidden Wealth)	
Management LLC, Alternative Wealth)	
Solutions, LLC, American Equity)	
Advisory Group, LLC d/b/a The Hidden)	
Wealth Solution, The Institute of)	
Financial Enrichment, LLC, Strategic)	
Retirement Solutions, LLC, Strategic)	
Equity Technology, LLC, Strategic)	
Equity Technology Management, LLC,)	
American Equity Investment Advisors)	
LLC, Innovative Medical Enterprises,)	
LLC, CDO Enterprises, Inc., Event)	
Labels LLC, Oliver Heritage, LLC, KTF,)	
LLC, Strategic Equity Partners LLC,)	
Moving Future, LLC, Incredible)	
Concepts, LLC, Upside Solutions, LLC,)	
Oliver Avery & Bryant, LLC, ERP, LLC,)	
GITW, LLC, Legacy of Faith, LP,)	
Legacy of Faith Trust, and John Doe)	
Corporate Entities,)	
)	
Defendants.)	

ORDER

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SC Court of Appeals

This matter came before the court on July 8, 2025, for an in-person hearing on four motions:
(1) Foundation Investment Advisors' motion to compel arbitration; (2) the Oliver Family,¹ the

¹ Charles Oliver, Leanna Oliver, and Davis Oliver.

Hidden Wealth Solution,² the Fund Defendants,³ and the Oliver Family Asset Defendants⁴ (collectively, the Oliver Defendants) and Devin Patel's motion to compel arbitration; and (3) Leanna Oliver, Davis Oliver, Hidden Wealth Management, American Equity Advisory Group, the Fund Defendants, and the Oliver Family Asset Defendants' motion to dismiss; and (4) the Plaags' motion to strike affidavits submitted in support of the motion to dismiss. Present at the hearing were Walker Humphrey and Jake Johnson of Willoughby, Humphrey and D'Antoni, P.A., representing the Plaintiffs; Robert Osborne of Parker Poe Adams & Bernstein L.L.P, representing the Oliver Family, The Hidden Wealth Solution, the Oliver Family Asset Defendants, the Fund Defendants, and Devin Patel; and Keith Munson of Rimon, P.C., representing Foundations Investment Advisors, LLC.

For the reasons below, the Court (1) grants Foundations' and Devin Patel's motions to compel arbitration, (2) denies the Oliver Defendants' motion to compel arbitration, without prejudice; (3) denies Leanna Oliver, Davis Oliver, Hidden Wealth Management, American Equity Advisory Group, the Fund Defendants, and the Oliver Family Asset Defendants' motion to dismiss, without prejudice and (4) denies the Plaags' motion to strike.

FACTUAL BACKGROUND

Plaintiffs Linda and Robert Plaag brought this claim for damages alleging that they lost money which they invested with and through the Defendants. The Plaags allege they were drawn

² Hidden Wealth Management and The Institute of Financial Enrichment.

³ Alternative Wealth Solutions, Strategic Equity Energy, Strategic Equity Technology Management, Strategic Equity Technology, Strategic Equity Technology a Series of 360 Holdings, Strategic Equity Path, and Strategic Equity Path GP.

⁴ American Equity Advisory Group, Oliver Avery and Bryant LLC, ERP LLC, Strategic Retirement Solutions LLC, Moving Future LLC, Incredible Concepts LLC, Upside Solutions LLC, GITW LLC, American Equity Investment Advisors LLC, CDO Enterprises, Inc., Oliver Heritage, LLC, KTF, LLC, Strategic Equity Partners LLC, Legacy of Faith L.P., and the Legacy of Faith Trust.

to the Oliver Defendants through their extensive national marketing presence which includes radio shows, podcasts, YouTube videos, and self-published books, all purporting to have the secret to a lifetime of tax-free income. The Plaags allege that they repeatedly instructed the Oliver Defendants to be as conservative as possible with their investments, but the Oliver Defendants invested significant amounts of the Plaags' funds into alternative, self-serving investments owned and operated by the Oliver Defendants. The Plaags also allege that the Oliver Family and Devin Patel, who is an investor advisor representative registered with Foundations, invested more of the Plaags' funds into underperforming and unsuitable mutual funds with high fees through Foundations. The Oliver Family allegedly never disclosed to the Plaags that they were not licensed in the securities industry. Finally, the Plaags allege that the Oliver Defendants operate their scheme behind a web of entities to protect their assets from creditors like the Plaags.

The Plaags filed their complaint on November 27, 2024. Chuck Oliver, Devin Patel, and The Institute of Financial enrichment (d/b/a The Hidden Wealth Solution) answered. Leanna Oliver, Davis Oliver, Hidden Wealth Management, American Equity Advisory Group, the Fund Defendants, and the Oliver Family Asset Defendants moved to dismiss for lack of personal jurisdiction and for failure to state a claim. Foundations moved to compel arbitration in lieu of an answer, and Devin Patel and all Oliver Defendants moved to join in Foundations' motion. The Court held an in-person hearing on these motions on July 8, 2025.

ANALYSIS

I. Foundations and Devin Met Their Burden to Prove an Arbitration Agreement Exists with the Plaags.

The Court finds that Foundations has offered sufficient evidence that there is a valid and enforceable arbitration agreement between Foundations and the Plaags which covers this dispute. As to Devin Patel, the Plaags agreed that the arbitration agreement covers claims against him. The

Court also finds that the parties' dispute over which rules apply to that proceeding is for the arbitrator to decide. As a result, the Court grants Foundations' motion to compel arbitration and stays the claims against it and Devin Patel pending the outcome of that proceeding.

II. The Oliver Defendants Failed to Prove an Arbitration Agreement Exists with the Plaags.

It is the duty of this Court to determine the existence of an enforceable arbitration agreement. *York v. Dodgeland of Columbia, Inc.*, 406 S.C. 67, 78, 749 S.E.2d 139, 144-45 (Ct. App. 2013). “[A] court must hold a party to its arbitration contract just as court would to any other kind” and it “may not devise novel rules to favor arbitration over litigation.” *Morgan v. Sundance, Inc.*, 596 U.S. 411, 418 (2022); *see also id.* (“If an ordinary procedural rule—whether of waiver or forfeiture or what-have-you—would counsel against enforcement of an arbitration contract, then so be it.”). So contrary to the Oliver Defendants' claim, there is no policy favoring arbitration which creates special rules for the Court to apply. *Palmetto Const. Grp., LLC v. Restoration Specialists, LLC*, 432 S.C. 633, 649, 856 S.E.2d 150, 153 (2021); *see also Morgan*, 596 U.S. at 418 (observing that the Supreme Court's historic references to a “policy favoring arbitration” actually “connotes something different,” where “[t]he policy is to make arbitration agreements as enforceable as other contracts, but not more so”) (cleaned up).

The question of whether a person can enforce an arbitration agreement goes to the agreement's existence. *Raymond James Fin. Servs., Inc. v. Cary*, 709 F.3d 382, 386 (4th Cir. 2013) (holding that whether the plaintiffs were “customers” who could enforce an arbitration agreement goes to the existence of an arbitration agreement and not its scope). And determining whether a valid arbitration agreement exists is *always* for the Court, even if an arbitration agreement purports to delegate that question to the arbitrator. *See Henry Schein, Inc. v. Archer & White Sales, Inc.*,

586 U.S. 63, 69 (2019) (“To be sure, before referring a dispute to an arbitrator, the court determines whether a valid arbitration agreement exists.”).

As proponents of arbitration, the Oliver Defendants bear the burden of establishing the existence of an agreement to arbitrate the dispute between them and the Plaags. *Bradley v. Brentwood Homes, Inc.*, 398 S.C. 447, 458, 730 S.E.2d 312, 317–18 (2012). The moving party must meet this burden using admissible evidence. *Dillon v. BMO Harris Bank, N.A.*, 173 F. Supp. 3d 258, 264 (M.D.N.C. 2016) (holding that the party seeking to compel arbitration must “produce[] credible, admissible evidence which satisfies the Court that there was an arbitration agreement”); *see also Saro Invs. v. Ocean Holiday P’ship*, 314 S.C. 116, 122, 441 S.E.2d 835, 839 (Ct. App. 1994) (noting that only admissible evidence in affidavits should be considered in support of a motion).

Here, there is no agreement between the Oliver Defendants and the Plaags. The Oliver Defendants instead argue that they fall within Foundations’ arbitration agreement, which extends to Foundations’ “representatives, directors, officers, employees, and agents.” But the Oliver Defendants offer no evidence that they are representatives, directors, officers, employees, or agents of Foundations. They simply point to allegations in the Plaags’ complaint to that effect. Yet Chuck Oliver, Devin Patel, and The Institute of Financial Enrichment—the three defendants who answered the complaint—denied those allegations. Those denials render the allegations “evidence of nothing.” *Griffin v. Van Norman*, 302 S.C. 520, 522, 397 S.E.2d 378, 379 (Ct. App. 1990); *see also Postal v. Mann*, 308 S.C. 385, 387, 418 S.E.2d 322, 323 (Ct. App. 1992) (“[P]arties are judicially bound by their pleadings unless withdrawn, altered or stricken by amendment or otherwise.”); Rule 7(a), SCRCP (including an answer as a pleading).

To fill this evidentiary gap, the Oliver Defendants argue that equitable estoppel allows them to rely on the Plaags' allegations rather than prove such a relationship exists with Foundations. This argument is unpersuasive. The Oliver Defendants cite only federal cases from other districts regarding estoppel.⁵ But the question here is one of state law. *Wilson v. Willis*, 426 S.C. 326, 336, 827 S.E.2d 167, 173 (2019). Under South Carolina law, equitable estoppel is a theory designed to prevent injustice which should be used sparingly. *Id.* at 345, 827 S.E.2d at 177 (citing *Hirsch v. Amper Fin. Servs., LLC*, 215 N.J. 174, 180, 71 A.3d 849, 852 (2013)). It should not be used as "a sword to compel arbitration." *Id.* (citing *Hirsch*, 215 N.J. at 180, 71 A.3d at 852). Based on the record provided, the Court finds that none of the traditional elements for equitable estoppel are present. *See Strickland v. Strickland*, 375 S.C. 76, 84–85, 650 S.E.2d 465, 470 (2007) (stating the elements of equitable estoppel). The Oliver Defendants therefore cannot use equitable estoppel as a substitute for proving they can enforce Foundations' agreement.

Without any evidence of an agreement offered, the Oliver Defendants fail to meet their burden to establish a valid and enforceable contract to arbitrate this dispute exists between them and the Plaags. The Court therefore denies their motion. But the denial is without prejudice as discovery may alter this ruling.⁶

⁵ These cases are non-binding, factually and legally inconsistent, and determined under a pre-*Morgan* standard in favor of arbitration. *E.g.*, *Carroll v. Leboeuf, Lamb, Greene & MacRae, L.L.P.*, 374 F. Supp. 2d 375, 378 (S.D.N.Y. 2005) ("The doctrine therefore appears to depend upon the broad federal policy favoring arbitration . . ."). And to the extent the Oliver Defendants claim that South Carolina law recognizes a special standard for equitable estoppel which applies to arbitration agreements—and they have not cited cases recognizing one—that separate standard no longer is good law. *Cf. Morgan*, 596 U.S. at 418–19 (holding that courts cannot create arbitration-specific rules, so an arbitration waiver rule which imposes different requirements than waiver otherwise imposes is invalid).

⁶ Because this conclusion disposes of the Oliver Defendants' motion, the Court need not reach the Plaags' argument that Chuck Oliver and The Institute of Financial Enrichment waived arbitration by answering the complaint and the other Oliver Defendants waived it by moving to dismiss. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591,

III. Leanna Oliver, Davis Oliver, Hidden Wealth Management, American Equity Advisory Group, the Fund Defendants, and the Oliver Family Asset Defendants' Motion to Dismiss Fails.

These Defendants moved to dismiss under Rule 12(b)(2) for lack of personal jurisdiction and under Rule 12(b)(6) for failure to state a claim. They withdrew their Rule 12(b)(6) motion at the hearing. So the only matter left for the Court to decide is personal jurisdiction..

To resolve whether a court may exercise personal jurisdiction over a nonresident, the trial court must (1) determine whether the South Carolina long-arm statute applies and (2) whether the nonresident's contacts in South Carolina are sufficient to satisfy due process. *Power Prods. & Servs. Co. v. Kozma*, 379 S.C. 423, 431, 665 S.E.2d 660, 664 (Ct. App. 2008). But “[b]ecause South Carolina treats its long-arm statute as coextensive with the due process clause, the sole question becomes whether the exercise of personal jurisdiction would violate due process.” *Cockrell*, 363 S.C. at 491, 611 S.E.2d at 508. Due process requires that there be minimum contacts between the defendant and the forum state such that maintenance of the suit does not offend traditional notions of fair play and substantial justice. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474-75 (1985). A physical presence in the state is not required. *State v. NV Sumatra Tobacco Trading, Co.*, 379 S.C. 81, 90, 666 S.E.2d 218, 222 (2008). This analysis includes consideration of whether exercising jurisdiction is “reasonable” or “fair.” *S. Plastics Co. v. S. Com. Bank*, 310 S.C. 256, 260, 423 S.E.2d 128, 131 (1992).

“In considering a preliminary motion to dismiss for lack of personal jurisdiction, the allegations of the complaint are deemed true.” *Springmasters, Inc. v. D & M Mfg.*, 303 S.C. 528, 532 n.1, 402 S.E.2d 192, 194 n.1 (Ct. App. 1991). Only if the complaint does not show jurisdiction does the court look to other evidence. *Id.* at 531, 402 S.E.2d at 193; *see also Mid-State Distributors*,

598 (1999). The Plaags may make this argument again if the Oliver Defendants later move to compel arbitration again.

Inc. v. Century Importers, Inc., 310 S.C. 330, 332, 426 S.E.2d 777, 779 (1993) (“There is no ‘other evidence’ requirement for personal jurisdiction where the complaint itself demonstrates jurisdiction.”). At the hearing, these Defendants acknowledged that the allegations in the complaint, if accepted as true, state sufficient jurisdictional facts against them. However, they argued that the Court should still consider the self-serving affidavits they submitted contesting those allegations. The Court declines to do so at this stage of the case. *Mid-State Distributors*, 310 S.C. at 332, 426 S.E.2d at 779; *Springmasters*, 303 S.C. at 531, 402 S.E.2d at 193. The Court therefore denies their motion without prejudice. These Defendants may renew it after further discovery.

IV. The Court Denies the Plaags’ Motion to Strike.

The Plaags moved to strike the affidavits submitted in support of the motion to dismiss on the ground that the affidavits were not filed with the motion. *See* Rule 6(d), SCRPC. The record shows that those Defendants filed the motion on February 14, 2025, but did not file the supporting affidavits until February 19, 2025. Those Defendants argued that they did not file the affidavits with the motion because of a technical scanning error. The Court notes that motion does not reference any affidavits, and the affidavits are dated three days after the motion was filed. In any event, this Court has discretion to accept an untimely affidavit. *Kitchen Planners, LLC v. Friedman*, 432 S.C. 267, 285, 851 S.E.2d 724, 734 (Ct. App. 2020), *aff’d as modified*, 440 S.C. 456, 892 S.E.2d 297 (2023). The Court exercises that discretion and denies the Plaags’ motion.

CONCLUSION

THEREFORE, for the reasons set forth above the Court orders as follows:

1. Foundations and Patel’s motions to compel arbitration are GRANTED, and the claims against it shall be stayed pending the outcome of that proceeding;

2. The Oliver Defendants' motion to compel arbitration is DENIED without prejudice;
3. Leanna Oliver, Davis Oliver, Hidden Wealth Management, American Equity Advisory Group, the Fund Defendants, and the Oliver Family Asset Defendants' motion to dismiss under Rule 12(b)(2) is DENIED without prejudice;
4. The Plaags' motion to strike is DENIED; and
5. Defendants are ordered to file any responsive pleadings within 21 days of this Order.

IT IS SO ORDERED.



Richland Common Pleas

Case Caption: Linda Plaag , plaintiff, et al vs Charles Oliver , defendant, et al

Case Number: 2024CP4006968

Type: Order/Compel

So Ordered

s/ Daniel Coble, 2774