

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 FRANK PERRELLI, JR.,)
)
)
 Plaintiff,)
)
)
 v.)
)
)
 VACATION INSPIRATIONS,)
)
 DESTINATION TRAVEL, LLC, JOSEPH)
)
 SHIRLEY, RANDY GARDNER, AND)
)
 JEFFREY PUMILIA,)
)
)
 Defendants.)
)

IN THE COURT OF COMMON PLEAS
 IN THE NINTH JUDICIAL CIRCUIT
 CASE NO.: 2024-CP-10-04606

RECEIVED

Jan 08 2026

SC Court of Appeals

**ORDER GRANTING MOTION TO
 COMPEL ARBITRATION AND
 STAY PROCEEDINGS**

Presiding Judge:
 Plaintiff's Attorney:

Hon. Deadra L. Jefferson
 Abigail Saunders, Esq.
 David Wolf, Esq.

Defendants' Attorney:
 Date of Hearing:
 Court Reporter:

John Massalon, Esq.
 March 27, 2025
 Hayley Burnett

THIS MATTER is before the Court on March 27, 2025, on Defendants' Motion to Compel Arbitration and Stay Proceedings Until the Completion of Arbitration, filed November 12, 2024. Defendants' filed a Memorandum in Support of Motion to Compel Arbitration and Stay Proceedings on March 25, 2025. Defendants' filed an Amended Memorandum in Support of Motion to Compel Arbitration and Stay Proceedings on March 26, 2025. Plaintiff filed a Memorandum in Opposition to Defendants' Motion to Compel Arbitration and Stay Proceedings on March 13, 2025. On March 26, 2025, Plaintiff filed a Surreply Memo in Opposition to Defendants' Motion to Compel Arbitration and Stay Proceedings. Appearing for the Plaintiff is Abigail Saunders, Esq. and David Wolf, Esq. Representing the Defendants is John Massalon, Esq. After consideration of the parties' memoranda and argument of counsel, the Court hereby GRANTS Defendants' Motion and orders that all proceedings are stayed pending the outcome of arbitration. The Court makes the following findings of fact and conclusions of law pursuant to

Rule 52 of the South Carolina Rules of Civil Procedure.

FINDINGS OF FACT

Plaintiff purchased a Vacation Inspirations (“VI”) Membership (“the Membership”) distributed by Destination Travel, LLC on October 8, 2022, in Charleston, South Carolina by Purchase Agreement (the “Purchase Agreement”). The Purchase Agreement includes the following arbitration provision:

Any controversy, claim or dispute arising out of or relating to this Purchase Agreement, shall be resolved and decided by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the “AAA”) (however, not under the auspices of AAA) and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator shall be selected by Vacation Inspirations. Upon final award, arbitrator compensation and cost of the location shall be paid by the non-prevailing party. The arbitration shall take place in Charleston, S.C. at the Charleston County Courthouse **or** other location determined by Vacation Inspirations.

On September 13, 2023, Plaintiff filed a lawsuit against Defendants in the Charleston County Court of Common Pleas. The Summons and Complaint was properly served on Defendants on September 23, 2024. The Complaint alleges among other things, that the Purchase Agreement (including the arbitration provision) was unconscionable and seeking injunctive and equitable relief. Defendants filed an Answer on November 11, 2024, denying these allegations, and later filed a motion to compel arbitration on November 12, 2024, pursuant to the arbitration provision in the Purchase Agreement.

CONCLUSIONS OF LAW

This Court finds the arbitration paragraph has the required nexus to interstate commerce to invoke the provisions of the Federal Arbitration Act, 9 U.S.C. § 1, *et seq.* (the “FAA”), to govern the issues herein. See Allied-Bruce Terminix Cos. v. Dobson, 513 U.S. 265, 115 S. Ct. 834 (1995); see also Munoz v. Green Tree Fin. Corp., 343 S.C. 531,538, 542 S.E.2d 360, 363 (2001). This is further supported by the Affidavit of Randy Gardner, filed in support of Defendants’ motion, which demonstrates that the subject transaction involved and affected interstate commerce as contemplated by the FAA. Gardner is a member and managing member of Destination Travel, LLC, as well as an operator of Vacation Inspirations. Counsel for Plaintiff does not contest that the FAA governs the issues before the Court.¹

¹The parties concede that the Defendant’s argument in support of arbitration is premised on the applicability of the
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Pursuant to the FAA and the Commercial Arbitration Rules 7(a) and (b), the arbitrator and not the Court determines all issues of arbitrability and the enforceability of the Purchase Agreement. See e.g. Henry Schein, Inc. v. Archer & White Sales, Inc., 586 U.S. 63, 68 139 S. Ct. 524, 529 (2019) (“When the parties’ contract delegates the arbitrability question to the arbitrator, the courts must respect the parties’ decision as embodied in the contract...”). The parties specifically incorporated the Commercial Arbitration Rules into the Purchase Agreement. Rule R-7(a) and (b) (2022) of the Commercial Rules provide as follows:

The arbitrator shall have the power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim.

The arbitrator shall have the power to determine the existence or validity of a contract of which an arbitration clause forms a part. Such an arbitration clause shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitrator that the contract is null and void shall not for that reason alone render invalid the arbitration clause. See AAA Commercial Arbitration Rules R-7(a) and (b) (2022).

Here, the parties clearly and unmistakably delegated the question of arbitrability to the arbitrator by invoking the Commercial Arbitration Rules of the American Arbitration Association. Plaintiff argues that he should not be required to arbitrate because he challenges the Purchase Agreement as unconscionable and claims that the Court must decide the issues of unconscionability before the case can be referred to arbitration. However, the Purchase Agreement also designated that the arbitrator decide questions regarding the existence or validity of a contract of which the arbitration provision forms a part. Under the Federal Arbitration Act, the Court may not decide whether an arbitration agreement applies to the instant dispute or issues about the enforceability of the contract of which the arbitration agreement forms a part if the parties clearly and unmistakably delegated those questions to an arbitrator. See also Masters v. KOL, Inc., 431 S.C. 28, 846 S.E.2d 893, 894 (Ct. App. 2020). In Masters, the purchaser of a car challenged the Dealer’s claim for arbitration on grounds that execution of subsequent agreements rendered the original agreement “moot and unenforceable.” The Court held that questions about whether the agreement was moot or unenforceable were for the arbitrator, not the Court. Specifically, the

FAA. Likewise, the parties concede that the arbitration provision at issue does not comply with the requirements of the South Carolina Arbitration Act. S.C. Code Ann. §15-48-10 (1978).

Court stated “While it is the default procedure for the court to decide the issues of whether a valid agreement to arbitrate exists and whether the specific dispute falls within the agreements scope, the parties may delegate this determination to the arbitrator if they clearly and unmistakably do so.” This Court concludes as a matter of law that the parties agreed to delegate issues regarding the enforceability of the Purchase Agreement to the arbitrator. Therefore, consonant with the parties’ agreement the Court must refer this matter to arbitration for the arbitrator to decide all such issues.

Alternatively, regardless of the decision maker, the ultimate question of arbitrability “is a matter of contract interpretation.” Landers v. Fed. Deposit Ins. Corp., 402 S.C. 100, 108, 739 S.E.2d 209, 213 (2013). See Am. Recovery Corp. v. Computerized Thermal Imaging, 96 F.3d 88, 92 (4th Cir. 1996) (internal citations omitted). The record is clear, however, that Plaintiff signed the Purchase Agreement and is therefore presumed to have read and understood the document he signed. Plaintiff presented no evidence to the contrary so this Court finds that any claim that Plaintiff did not read or understand the Purchase Agreement before signing it is without merit. See generally, Gibson v. Epting, 426 S.C. 346, 352, 827 S.E.2d 178, 181 (Ct. App. 2019); see also Region Bank v. Schmauch, 354 S.C. 648, 663, 582 S.E.2d 432, 440 (Ct. App. 2003).

Additionally, this Court finds that the Purchase Agreement was not an adhesion contract. The agreement itself shows that Plaintiff not only had the opportunity and meaningful choice to alter or amend the Purchase Agreement, including the arbitration provision, but Plaintiff in fact requested changes to the standard Purchase Agreement which were included in the Addendum/Exception to Contract as part of the Purchase Agreement. While there were alterations made in handwriting in the Addendum/Exceptions portion of the Purchase Agreement, none of those alterations involved the arbitration provision. In addition, the front page of the Purchase Agreement leaves blanks for the parties to fill in regarding the final negotiated purchase price and other matters. Accordingly, there is no factual support that the Purchase Agreement was a “take or leave it” situation thereby failing to establish the requisite element of an adhesion contract. Based on the foregoing,

IT IS ORDERED, ADJUDGED AND DECREED Defendants’ Motion to Compel Arbitration and Stay Proceedings Until the Completion of Arbitration, filed November 12, 2024 is heard and Granted and the Proceedings are stayed pending arbitration.

AND IT IS SO ORDERED.

This 18th day of July, 2025
Charleston, S.C.

Hon. Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit



Charleston Common Pleas

Case Caption: Frank Perrelli Jr VS Vacation Inspirations , defendant, et al

Case Number: 2024CP1004606

Type: Order/Compel

IT IS SO ORDERED.

s/D.L. Jefferson Ninth Judicial Circuit Judge 2128