

RECEIVED

Jan 12 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
THE COURT OF COMMON PLEAS
C.A. NO. 2025-CP-10-02946

DELORES WALKER,

PLAINTIFF,

vs.

CARROLL MANAGEMENT COMPANY,

DEFENDANT.

H E A R I N G
BEFORE THE HONORABLE CARMEN TEVIS MULLEN

DATE: SEPTEMBER 11, 2025
TIME: N/A
LOCATION: SOUTH CAROLINA CIRCUIT COURT 9
TRANSCRIBED BY: AMANDA WATSON

LEGAL EAGLE
Post Office Box 5682
Greenville, South Carolina 29606
864-467-1373
depos@legaleagleinc.com

APPEARANCES :

DOMINICK JOSEPH CALLELA, ESQUIRE
MILLER, DAWSON, SIGAL, AND WARD
4969 CENTRE POINTE DRIVE, SUITE 103
NORTH CHARLESTON, SOUTH CAROLINA 29418
dominick@mdswlegal.com

ATTORNEY FOR THE PLAINTIFF.

AMANDA MARIE GASTON, ESQUIRE
CLAWSON AND STAUBES, LLC
126 SEVEN FARMS DRIVE, SUITE 20
CHARLESTON, SOUTH CAROLINA 29492
teamgaston@cslaw.com

ATTORNEY FOR THE DEFENDANT.

INDEX

PROCEEDINGS 4
CERTIFICATE OF TRANSCRIBER 18

EXHIBITS

(NONE MARKED)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

P R O C E E D I N G S

1
2 THE COURT: All right. I'm just going to go ahead and
3 (indiscernible). This is Delores Walker versus Carroll
4 Management Company. And this is Defendant's -- I'm sorry,
5 this is Defendant's motion to dismiss arbitration; is that
6 correct? To dismiss and compel arbitration; is that correct?

7 MS. GASTON: Yes, Your Honor.

8 THE COURT: Okay. Whenever you are ready. I will tell
9 you I have read your briefs, on both sides.

10 MS. GASTON: Thank you, Judge. May it please the Court.
11 I'll be very brief. Your Honor, I'm Amanda Gaston for the
12 defense. This is our motion to enforce arbitration
13 (indiscernible) containing the leasing agreement. To be as
14 straight forward as possible, Judge, it's our position, of
15 course, that the parties are bound by the provisions in the
16 leasing agreement. Specifically, those referring to
17 arbitration that they knowingly signed, which is the case
18 here. And that the Federal Arbitration Act, of course,
19 requires enforcement of those provisions, absent showing
20 unconscionability or waiver which is not present in this
21 case, Judge.

22 THE COURT: Okay. Sir?

23 MR. CALLELA: Good afternoon, Your Honor. May it please
24 the Court. Dominick Callela along with (indiscernible), on
25 behalf of the Plaintiff, Delores Walker. I understand that

1 the defense contends that the Federal Arbitration Act is
2 applicable in this -- in this (indiscernible) here by
3 involving the language, stating that it applies.

4 However, just simply stating that the language applies
5 in the FAA is not enough. A recent Supreme Court -- South
6 Carolina Supreme Court decision (indiscernible) actually
7 stated that a party seeking to compel arbitration under the
8 FAA must demonstrate that the contract implicates interstate
9 commerce. Simply stating or conflating that the FAA would
10 govern, again, is not enough, Your Honor.

11 To ascertain whether, again, (indiscernible) involves
12 commerce within the meaning of the FAA, the Court must
13 determine or abandon the agreement, the complaint, and the
14 surrounding facts. Additionally, Your Honor, the United
15 States Supreme Court, along with the South Carolina Supreme
16 Court, also relies on affidavits when determining whether or
17 not the transaction involved interstate commerce.

18 (Indiscernible) on the language, again, in arbitration
19 provisions that the FAA controls and applies, defense also
20 states that the lease agreement was executed in the ordinary
21 course of Carroll Management Company's multi-state property
22 management operations, involving interstate communications,
23 financial transactions, and contractual relationships with
24 vendors, suppliers, and contractors.

25 (Indiscernible) here, the defense has not provided any

1 affidavits (indiscernible). There is only evidence that is
2 providing the lease agreement between Ms. Walker, and
3 Harborstone, and Defendant, Carroll Management Company. In
4 effect, the arbitration division had the FAA language, which,
5 again, is not enough, Your Honor. So ---

6 THE COURT: Which paragraph is it in? Which paragraph
7 is the arbitration agreement in? I don't see that addendum.

8 MR. CALLELA: Paragraph 42, page 13.

9 THE COURT: Got it. Okay.

10 MR. CALLELA: And according to Hicks here, which,
11 potentially, has some (indiscernible), Supreme Court and
12 Hicks analyzed the agreement and it's surrounding facts. The
13 Court actually stated that the opinion of the court of
14 appeals is proper because they came to the conclusion of the
15 transaction involved interstate commerce.

16 The court of appeals was basing their opinion on the
17 fact that they were a Massachusetts Corporation, they were
18 doing business in South Carolina. They remained
19 headquartered in Massachusetts where the (indiscernible)
20 records was also located. However, they also stated that the
21 Unifirst Corporation shipped uniforms from Kentucky to South
22 Carolina, as well as the (indiscernible) transaction were
23 sent to Massachusetts.

24 Somewhere here, the defense is stating that the
25 transaction payments billed outside the state of South

1 Carolina. However, the Supreme Court did also state that the
2 inquiry is focused on a specific contract chart required for
3 performance. Supreme Court actually affirmed circuit court's
4 opinion, stating that the contract was entered in -- in
5 Anderson County, South Carolina. The (indiscernible) was
6 named flame-resistant (indiscernible).

7 The contract was to provide fire-retardant overalls to
8 employees in Anderson County. Plaintiff was organized and
9 doing business in Anderson County, South Carolina. Defendant
10 was a Massachusetts Corporation, authorized to do business in
11 South Carolina. Plaintiff always dealt with the Greenville
12 location and the garments were always delivered to the
13 Plaintiff in Anderson County.

14 Here, Your Honor, we have very similar facts to Hicks.
15 Defense contends that communication (indiscernible)
16 transactions constitute interstate commerce. However, there
17 are no other signs of the contract involving anything or any
18 other matter outside of the borders of South Carolina. Here,
19 the contract is for a landlords lease and renting an
20 apartment to the Plaintiff.

21 The lease agreement is named apartment lease agreement,
22 South Carolina. The parties to the agreement are Plaintiff,
23 Delores Walker, who is a resident of South Carolina and
24 Harborstone is listed as the landlord for the apartment
25 premises, located at 3825 Ladson Road, apartment 1202,

1 Latson, South Carolina, Charleston County -- Charleston
2 County, South Carolina.

3 The obligations of the relationship between the parties
4 arrived out of a contract rule -- relationship between
5 Plaintiff and solely the Harborstone premises, managed and
6 located in Ladson, Charleston County, South Carolina.
7 Further, the arbitration clause only binds the landlord and
8 the resident, other permitted occupants, as well as other
9 people planning on behalf of, or through the resident. It
10 does not bind the landlord or any other vendors,
11 subcontractors, other agents of the landlord.

12 Here again, since the FAA does not apply, we would like
13 to use the South Carolina arbitration provision requirements
14 and South Carolina code 1548-10. Which states that, notice
15 that it is a contract subject to arbitration pursuant to this
16 chapter (indiscernible) underlined in capital letters on the
17 initial page. Here, the lease does not have such notice or
18 provision. The only mention of arbitration is on page 13,
19 paragraph 42 of the lease.

20 Further, the defense did contended in her -- in the
21 reply, that they were relying on ordering (indiscernible)
22 where the lease different -- differentiated by the inclusion
23 of that requirement. And the judge in (indiscernible) even
24 stated in their statement of judgment, that was the
25 (indiscernible) upheld (indiscernible) the arbitration was

1 enforceable.

2 However, Your Honor, even if the FAA were not to apply,
3 the arbitration provision itself (indiscernible) it does
4 allow for (indiscernible) equity (indiscernible) any
5 contract. (Indiscernible) adding things to a contract rule
6 arbitration clause is defined as the absence of a choice.
7 (Indiscernible) due to one-sided contract provisions to get a
8 return so oppressive that no reasonable person will make that
9 (indiscernible).

10 Here, Your Honor, Defendant contends and, we will now be
11 agreeing, that an adhesion contract, or the mere presence of
12 standardized (indiscernible) contract is not -- does not
13 render arbitration agreements enforceable. However, the
14 Supreme Court furthered that analysis and stated though --
15 although it is not (indiscernible) conscionable, it is a
16 strong indication that there is a lack of meaningful choice
17 to negotiate the terms, and has met with considerable
18 skepticism by the Courts.

19 But, here today, Your Honor, I'm asking the Court to
20 view that under considerable skepticism. South Carolina has
21 held the position, especially under contracts involving
22 consumers, and retail, and -- or any other sophisticated
23 party because of the disparity in the bargaining
24 (indiscernible). And the contract, as a whole here, is on a
25 take-it-or-leave-it basis.

1 Similar to other contracts in Charleston right now.
2 Corporations are taking over all the apartment complexes
3 here. And you have residents who have no choice but to
4 either accept or go over and look at housing elsewhere.
5 Similar to the Supreme Court and *Simpson v. MSA of Myrtle*
6 *Beach* and as well as *Smith v. D.R. Horton*.

7 The Supreme Court (indiscernible) meaningful choice,
8 saying that whether one party lacks meaningful choice in
9 entering the arbitration agreement at issue, typically speaks
10 to the fundamental merits of the bargaining process.
11 However, as *Simpson v. The MSA of Myrtle Beach*, the Court,
12 kind of, laid out an analysis by the Court analyzing the
13 elements.

14 Certain elements are the relative disparity of the
15 bargaining network, the relative sophistication of the
16 parties, whether or not Plaintiff -- or whether or not
17 counsel was present during the signing of the agreement, as
18 well as whether or not the Plaintiff had a substantial
19 business concern. And in *Simpson*, it went even further and
20 looked at the conspicuousness following arbitration
21 agreement.

22 Here, Your Honor, no counsel was present during the
23 signing of the arbitration. It was during COVID. It was
24 simply sent through email for electronic signature. No -- no
25 counsel was advising Ms. Walker or any other party. The

1 sophistication of the party is clear. Harborstone and
2 Carroll Management are the sophisticated parties. They were
3 the sole (indiscernible) of the -- of the agreement, and they
4 regularly conduct lease agreements, (indiscernible) and
5 property transactions.

6 Ms. Walker is a 55-year-old woman. She did not graduate
7 high school. She has an 11th grade education. She works at
8 a clothing store. She, by no means has any of the formal
9 knowledge of any sort of business transactions. Again,
10 speaking to the bargaining power, the contract is a contract
11 appeasement and easement. And although, and again, it is not
12 per-say unconscionable, there is no bargaining or negotiating
13 power on behalf of the resident. And even if she were to
14 argue, she is not a sophisticated party, she would not know
15 what to argue.

16 And also, speaking to the business concern, Harborstone
17 and Carroll Management Company own properties all across the
18 state and are parties to multiple leasing agreements across
19 the state. Ms. Walker is a single resident to a single lease
20 agreement, she is, by no means, a substantial business
21 (indiscernible) and that is stated per the South Carolina
22 Supreme Court and (indiscernible) and DR Horton. Where
23 (indiscernible) to a corporation does absolutely fall short
24 of its (indiscernible).

25 And if we want to go further, Your Honor, into the

1 (indiscernible) of the agreement, the resident did sign
2 underneath the paragraph, however, similar to Simpson, where
3 above the signature block there was bolded and capitalized
4 language that stated, please see additional terms upon the
5 other side, there was just -- there was just a signature
6 block here for Ms. Walker to sign.

7 The arbitration agreement in paragraph 42 on page 13 is
8 the exact same font. It looks exactly the same as every
9 other paragraph in that lease agreement. There is nothing
10 that points to, hey, this is the (indiscernible). And so,
11 and again, speaking to the one-sidedness of the terms,
12 similar to Grose (phonetic), where there is a similar
13 arbitration agreement, the judgement ruled that the
14 limitations of a resident to proceed with a class action, or
15 any other proceeding where someone acts in a representative
16 capacity, is one-sided. It prohibits the resident
17 (indiscernible).

18 And look to the limit of the award of attorney's fees.
19 It states that each party must bear their own costs and
20 attorney's fees to proceed with arbitration. Additionally,
21 there is language (indiscernible) per South Carolina
22 residential (indiscernible). Therefore, Your Honor, we ask
23 that the Court deny (indiscernible) arbitration.

24 THE COURT: Go ahead and respond, please.

25 MS. GASTON: Thank you, Judge. First, Your Honor, the

1 lease agreement itself unmistakably provides for arbitration.
2 Paragraph 42 on page 13 of the leasing agreement does, in
3 fact, stand out, Your Honor. In addition to the language of
4 the paragraph under the subheading (indiscernible), it
5 includes a spot for both the resident's initials as well as
6 the landlord's initials, Judge. So, that is unlike the
7 paragraphs in the leasing agreement. So, there is no element
8 of surprise, concealment, or ambiguity. It is right there.

9 The arbitration provision itself is not unconscionable.
10 It reflects that the agreement shall be enforceable pursuant
11 to the Federal Arbitration Act. And South Carolina law is
12 clear, Judge. Just because this is a standard leasing form
13 does not render it unenforceable. It is clear by the
14 Plaintiff's signature, dated November 21st of 2022, that she
15 specifically acknowledged the arbitration clause. She signed
16 it with her initials, DW.

17 The Plaintiff's reliance on SC code 1548-10 fails
18 because the Federal Arbitration Act preempts that
19 requirement. So, to the extent the arbitration agreement
20 itself invokes the Federal Arbitration Act, it provides that
21 federal law governs, and in the event of a conflict, the
22 federal law shall -- shall -- shall control.

23 So, Your Honor, to the extent that the provisions are
24 unenforceable, there are several. So, there's three, I
25 believe, that were mentioned. The role of conduct

1 requirement, the correct evidentiary standard, there is the
2 traditional preponderance of the evidence. Understanding, of
3 course, the prohibition on attorney's fees is unenforceable,
4 Judge. Just like a Court -- a mediator may award attorney's
5 fees to either party. Additionally, the language
6 (indiscernible) limit the Defendant's liability in ways
7 consistent -- inconsistent with the Act would be
8 unenforceable. We understand that.

9 We also have, Judge, if the Court would like an
10 affidavit, but we would just, instead of filing it for public
11 view, we would be happy to provide that to the Court for the
12 Court's review. It's something that we do not want to e-file
13 for anybody to see online. It essentially addresses the
14 concerns brought up by the Plaintiff in terms of the
15 interstate commerce argument. So we'd be happy to provide
16 that to you forward.

17 THE COURT: Anything else you want to respond?

18 MR. CALLELA: Yes, Your Honor. If I may.

19 THE COURT: Let me get your last name. I apologize.

20 MR. CALLELA: Callela.

21 THE COURT: Thank you, sir.

22 MR. CALLELA: And, Your Honor, I just want to also state
23 that I can provide the forward copy (indiscernible). And so,
24 I just wanted to point out a couple of things (indiscernible)
25 there. They still are relying on the FAA control. Again,

1 Your Honor, the Court needs to -- the Court needs to analyze
2 whether or not interstate commerce is involved before we step
3 to whether or not the language in the FAA is applied.

4 And also, if the FAA does not apply, again, South
5 Carolina code 1510-48 does apply. And this lease here does
6 not follow the (indiscernible) scope of that requirement.
7 Additionally, Your Honor, the defense is stating they are
8 happy to provide affidavits of the transactions that are
9 interstate commerce ---

10 THE COURT: We have to do this two days in advance
11 before the actual hearing to get the affidavits, you know, so
12 I can reply and... I'm assuming they don't want to
13 e-file it because they don't want to be bound by. It is that
14 why they don't want to e-file it?

15 MS. GASTON: Your Honor, it was executed by general
16 Counsel for R.E. Carroll, and so, within there, there are, of
17 course, business -- language relating to the business itself.
18 And so, the inner workings and the relationship between R.E.
19 Carroll Management, as well as the Harborstone, which is, in
20 this case, doing business as the apartments, and so there's
21 language in there that we did not want -- or that the client
22 -- my client, respectfully, requested not be filed with the
23 court for that reason.

24 THE COURT: I have to tell you that (indiscernible) come
25 up in the last couple of weeks (indiscernible) people not

1 filing affidavits (indiscernible) two days in advance, so
2 (indiscernible).

3 MR. CALLELA: Yes, Your Honor. Again, so, the defense
4 has not provided any of the language beyond FFA being
5 involved in the arbitration provision. Again, the lease is
6 in South Carolina, the Plaintiff is a South Carolina
7 resident. The only apartment complex that is involved in
8 that lease agreement is Harborstone apartments in Ladson
9 County, excuse me, in Ladson, South Carolina.

10 The defense did not contend that anything
11 (indiscernible) language in the arbitration provision stating
12 that the FAA applies and would pre-empt state law. And,
13 again, Your Honor, the lease agreement does not comply with
14 state law. There is no other noticeable arbitration
15 agreements (indiscernible) initial page, no rubber stamping.
16 The defense, in the later order, in that lease
17 (indiscernible) by including that. But, in our lease hearing
18 today, there is no such requirement (indiscernible).

19 THE COURT: Okay. (Indiscernible)

20 MS. GASTON: I would just say, Judge, to the additional
21 notice requirement, to the extent that South Carolina law
22 (indiscernible) requirements. Of course, if the Federal
23 Arbitration Act is controlling, than it would pre-empt the
24 requirement. That imposes a heightened standard based on
25 South Carolina State law, but not necessarily the FAA.

1 THE COURT: Mr. Callela, will you give me a condensed
2 order for this case? Okay. And will you do it in word
3 format and send it to (indiscernible) opposing counsel and
4 also send it to my lay clerk? Okay? Okay. And you are
5 welcome to provide comments if you want to respond. How long
6 until we ---

7 MR. CALLELA: (Indiscernible).

8 THE COURT: Yeah.

9 MR. CALLELA: (Indiscernible).

10 THE COURT: Okay. Thank you.

11
12
13 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED)
14
15
16
17
18
19
20
21
22
23
24
25

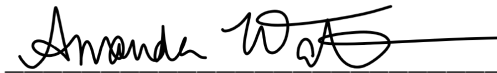
CERTIFICATE OF TRANSCRIBER

State of South Carolina

County of Charleston

I, AMANDA WATSON, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in South Carolina Circuit Court 9, Charleston, South Carolina, on the 11th day of September, 2025.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

A handwritten signature in black ink, appearing to read "Amanda Watson", is written over a horizontal line. The signature is stylized and cursive.

AMANDA WATSON, TRANSCRIBER