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STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 MOORE BEAUSTON & WOODHAM, L.L.P.,)
)
 Plaintiff,)
)
 -versus-)
)
 MARC A. QUIGLEY,)
)
 Defendant.)

COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT
 SC Court of Appeals
~~2013-CP-10-1535~~

2013-CP-28-727

ORDER TO COMPEL
ARBITRATION

FILED FOR RECORD
 2015 DEC 10 PM 12:18
 KERSHAW COUNTY, S.C.

Pursuant to §15-48-20 of the S.C. Code Ann., this action came before the Court by Motion To Compel Arbitration of the Plaintiff on October 14th, 2013 and was heard by the Honorable L. Casey Manning.

FINDINGS OF FACT

1. The Plaintiff, MOORE BEAUSTON & WOODHAM, L.L.P., came into existence in 1996 by way of a written Partnership Agreement (the "Agreement").
2. The 1996 Agreement had, as its first page, a Table of Contents. The 1996 Agreement to the Partnership Agreement had, as its second page, the actual beginning of the Agreement. On the top of the second page of the 1996 Agreement was the provision **"THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO CHAPTER 48 OF THE CODE OF LAWS OF SOUTH CAROLINA (1976)"** and is typed in large bold print and underlined as mandated in §15-48-20 of the S.C. Code Ann.
3. In 2001, the case of Zabinski v. Bright Acres Assocs., 346 S.C. 580, 597, 553 S.E.2d 110, 118-19 (2001) clarified that §15-48-10 of the S.C. Code Ann. defined "first page" as meaning the very first page of a document. Thus, the Agreement in 1996 failed to comply with §15-48-20 of the S.C. Code Ann. because the Arbitration notice was on page 2 of the Agreement, due to the Table of Contents being page 1.

ATTEST: I have Correct & Certified
 Court File in this
 Court
Debra S. Manning
 Clerk of Court Kershaw County

4. In 2006, the partners of MOORE BEAUSTON & WOODHAM, L.L.P. amended the Agreement for the purpose of bringing the Agreement in compliance with §15-48-10 of the S.C. Code Ann. as clarified by Zabinski. The First Amendment of the Agreement had an effective date of September 1, 2006 and states in the second paragraph that "The Table of Contents of the Partnership Agreement is deleted in its entirety." In addition, the first page of the First Amendment contained an arbitration legend as follows: **AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO S.C. CODE ANN. § 15-48-10 et seq., AS MODIFIED HEREIN**, which complies with §15-48-10 of the S.C. Code Ann. After the signature of the First Amendment, the original Table of Contents was removed and destroyed as part of the Agreement.
5. In 2007, the partners of MOORE BEAUSTON & WOODHAM, L.L.P. amended the Partnership Agreement for purpose of admitting the Defendant, Marc A. Quigley, to the Partnership. He signed the Second Amendment to the Partnership Agreement which had an effective date of November 27, 2007. The first page of the Second Amendment contained an arbitration provision as follows: **AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO S.C. CODE ANN. § 15-48-10 et seq., AS MODIFIED HEREIN**, which complies with §15-48-10 of the S.C. Code Ann.
6. In July and November of 2011 respectively, a Third Amendment and a Fourth Amendment were signed by the partners of MOORE BEAUSTON & WOODHAM, L.L.P., including Marc A. Quigley. Both the Third and Fourth Amendments contained an arbitration provision as follows: **AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO S.C. CODE ANN. § 15-48-10 et seq., AS MODIFIED HEREIN**, which complies with §15-48-10 of the S.C. Code Ann.
7. There was no other way for the Partnership Agreement of MOORE BEAUSTON & WOODHAM, L.L.P. to comply with the format and placement of Arbitration language other than to amend the Agreement.
8. The Defendant, Marc A. Quigley, maintained that the Agreement failed to comply with S.C. Code Ann. §15-48-10 even after all four amendments, three of which he signed had the proper arbitration legend, because the actual copy of the Partnership Agreement he was given prior to becoming a partner still contained a copy of the Table of Contents as page 1 even though the Second Amendment expressly deleted the Table of Contents.

9. The Defendant also argued that while the main dispute is purely a contractual matter over who is owed money under the Agreement, the complaint and counterclaim also raise related matters that are not normally arbitrated, such as breach of fiduciary duties or any claims under the South Carolina Payment of Wages Laws.

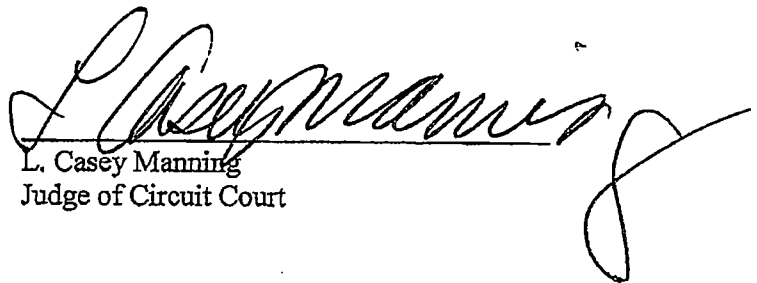
APPLICATION OF LAW TO FACTS

1. Public Policy in the State of South Carolina heavily favors the use of arbitration to settle matters. Zabinski, 346 S.C. at 596, 553 S.E.2d at 118. A motion to compel arbitration made pursuant to an arbitration clause in a written contract should only be denied where the clause is not susceptible to any interpretation which would cover the asserted dispute. Tritech [Elec, Inc. v. Frank M. Hall & Co., 343 S.C. 396, 540 S.E.2d 864].
2. The Agreement was amended in 2006 to officially remove the Table of Contents from the Agreement so that Page 2 of the Agreement would then become the first page of the Agreement with an arbitration provision that was in compliance with S.C. Code Ann. §15-48-10. The original Table of Contents was removed and destroyed as part of the Agreement after the First Amendment. For convenience, some partners maintained "copies" of the Table of Contents of the Agreement, while acknowledging that it was not officially part of the Agreement.
3. Any doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration. Towles v. United Healthcare Corp., 338 S.C. 29, 41, 524 S.E.2d 839, 846 (Ct.App.1999).
4. The test of whether arbitration can be used to settle a tort claim is based on a determination of whether the particular tort claim is so interwoven with the contract that it could not stand alone. If the tort and contract claims are so interwoven, both are arbitrable. On the other hand, if the tort claim is completely independent of the contract and could be maintained without reference to the contract, the tort claim is not arbitrable. Zabinski, 346 S.C. at 597 n. 4, 553 S.E.2d at 119 n. 4.

5. 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. Zabinski, at 598, 553 S.E.2d at 119. Public policy supports the rule that if a tort is significantly relevant to a contract, the tort would also be arbitrable. If this were not the case, then arbitration would never be available for any person seeking relief if there is a tort allegation brought forward. In this case, there would be no breach of fiduciary duty or claims under the South Carolina Payment of Wages Laws without the contractual relationship between MOORE BEAUSTON & WOODHAM, L.L.P. and Marc A. Quigley pursuant to the Agreement.

NOW THEREFORE, based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

This matter, including all claims and counterclaims in the Complaint and Answer, are ordered for arbitration as soon as practicable.


L. Casey Manning
Judge of Circuit Court

Date: Dec 1, 2015