

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT
C.A. No: 2018-CP-37-00271

Betty Herrington,

Plaintiff,

Vs.

SSC Seneca Operating Company, LLC,
d/b/a Seneca Health & Rehabilitation
Center; SavaSeniorCare, LLC; SSC
Equity Holdings, LLC; SavaSeniorCare
Administrative Services, LLC;
SavaSeniorCare Consulting Services,
LLC;

Defendants.

ORDER

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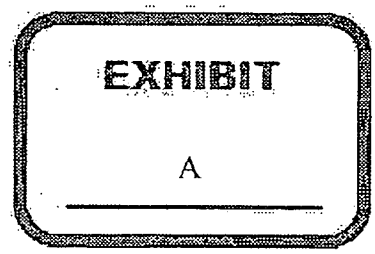
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SC Court of Appeals

This matter came before the Court on September 10, 2018 pursuant to the Motions to Compel Arbitration filed by Defendants SSC Seneca Operating Company, LLC, D/B/A Seneca Health and Rehab; SavaSeniorCare Administrative Services, LLC ("SAS"), and SavaSeniorCare Consulting, LLC ("SC") (Collectively "Defendants"). Raymond T. Wooten was present for Plaintiff and Perry M. Buckner, IV, was present for Defendants.

FACTS

Plaintiff was admitted to Seneca Health and Rehabilitation Center ("SHRC") on or about February 27, 2016, after having been treated at Oconee Medical Center for a wound on her left foot, among other medical conditions. Plaintiff was a resident of SHRC from her admission until she was transferred to Oconee Medical Center on March 28, 2016, where she underwent a left foot transmetatarsal amputation with left tendon Achilles lengthening. After the amputation, Plaintiff was readmitted to SHRC on April 5, 2016. Plaintiff filed suit on April 25, 2018 alleging that the care provided by Defendants while she was a resident at SHRC was deficient. When



Plaintiff entered SHRC, she executed various documents including a document entitled "Dispute Resolution Program" ("DRP"). The DRP was drafted by Defendant SHRC and presented by Defendant SHRC's employee to Plaintiff. On June 25, 2018, Defendants each filed Motions to Compel Arbitration. Defendants SAS and SC were not signatories to the contract but nevertheless argued that they had rights to arbitration pursuant to their status as third party beneficiaries. Said Motions alleged that, pursuant to the DRP, Plaintiff had agreed that all disputes would be resolved by Arbitration pursuant to the Federal Arbitration Act ("FAA"), and asked the Court to stay or dismiss the current suit and to compel arbitration pursuant to the terms of the DRP. Plaintiff opposed Defendants' Motions on the grounds that the DRP was not a valid and binding contract, and that even if it were found to be a valid and binding contract, it did not apply to the present case by its express terms.

ANAYLSIS

As a threshold issue, the court must determine whether the DRP is a binding contract that applies to the present case. "General contract principles of state law apply to arbitration clauses governed by the FAA." Munoz v. Green Tree Fin. Corp., 542 S.E.2d 360, 364 (S.C. 2001).

The DRP applies to disputes and defines a dispute as "any claim or dispute totaling \$50,000.00 individually or in the aggregate that would constitute a cause of action that either party could bring in a court of law[.]" (DRP, pgs. 2-3) (*emphasis added*). Claims for less than \$50,000.00 are excluded from the definition of a dispute. (DRP, pgs. 2-3). Claims for greater than \$50,000.00 are not included within the definition of a "Dispute." Therefore, by its own unambiguous terms, the DRP only applies to claims or disputes of exactly \$50,000.00. At the hearing, Defendants argued that the DRP was intended by the parties to apply to claims equal to or greater than \$50,000.00. However, to interpret the DRP to apply to claims exceeding

\$50,000.00, the Court would have to add language to the DRP that is not present. "When the language of a contract is plain and capable of legal construction, that language alone determines the instrument's force and effect. The court's duty is to enforce the contract made by the parties regardless of its wisdom or folly, apparent unreasonableness, or the parties' failure to guard their rights carefully." Ellis v. Taylor, 449 S.E.2d 487, 488 (S.C. 1994) (internal citations omitted). "The court is without authority to consider parties' secret intentions, and therefore words cannot be read into a contract to impart an intent unexpressed when the contract was executed." Pea Dee Stores, Inc. v. Doyle, 672 S.E.2d 799, 802 (S.C. App. 2009). By its plain and unambiguous language, the DRP only applies to claims for exactly \$50,000.00. The DRP does not apply to the present case as Plaintiff is not claiming exactly \$50,000.00 in damages. Defendants are sophisticated entities who drafted the DRP and presented it to Plaintiff, and they are bound by the unambiguous language of the contract that they drafted. The Court cannot read words into the DRP to impart a meaning that was not expressed in the contract when executed. Because the DRP does not apply to the present case by its express terms, the Court does not need to address Plaintiff's other arguments as to whether or not the DRP is a valid and binding contract.

CONCLUSION

As set forth above, the DRP does not apply to the present case as Plaintiff is not claiming exactly \$50,000.00 in damages. Therefore, the Motions to Compel Arbitration filed by Defendants SSC Seneca Operating Company, LLC, D/B/A Seneca Health and Rehab; SavaSeniorCare Administrative Services, LLC, and SavaSeniorCare Consulting, LLC, are denied.

IT IS SO ORDERED.

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The Honorable R. Scott Sprouse

Walhalla, South Carolina

Date:



Oconee Common Pleas

Case Caption: Betty Herrington VS Ssc Seneca Operating Company, Llc ,
defendant, et al
Case Number: 2018CP3700271
Type: Order/Compel

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit