

STATE OF SOUTH CAROLINA
COUNTY OF Spartanburg
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP4202449

Maggie Mccraw et al
PLAINTIFF(S)

Fundamental Clinical And Operational Services, Llc et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Please see below.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 10/16/2020 .

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DEC 02 2020
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

This matter is before the Court on a SCRPC Rule 59(e) Motion to Alter or Amend a Judgement, on motion filed by the Defendants.

After reviewing the Defendants' Motion to Alter, Amend, and/or Reconsider the Order Denying Motions to Compel Arbitration and to Stay, this Court's prior order, the previous memos filed by the parties in regards to the initial motion, the pleadings filed by the various parties, and numerous legal authorities. Plaintiff's attorney is asked to prepare a formal order denying the present motion. Once the formal order is submitted, reviewed, edited, signed and filed, it will only then become the final order of this Court.

This Court notes that there is language in the Defendants Motion that references this Court's prior Order as making "no sense", "no way to square the logic", referring to part of its analysis as "absurd" and strongly suggesting that this Court, and perhaps the South Carolina Supreme Court as well, is "overtly hostile to arbitration". This Court is capable of making errors and is thankful for appellate judges who, more frequently than is liked, remind this court that its decisions are far from perfect. This Court will concede that it often makes no senses, can engaged in logic that is difficult to square, and is not the first time it has heard its decisions called absurd. Nevertheless, hostile to arbitration, this court disagrees and challenges that statement.

The law and this Court favors and respects the goals of arbitration. The writing or entering the name of a party on to the contract has a significant and material effect in performing basic contract analysis.

As to the Defendants' arguments broadly, the prior Order reads correctly and needs no further clarification. Nevertheless, since the present matter is offered as a SCRPC Rule 59(e) motion, Plaintiff's counsel is asked, while preparing the proposed formal order; elaborate on the merger argument and the equitable estoppel argument. This Court has once again reviewed the cases of Coleman, Hodges and Thompson. Under the facts as presented as to the present case, the prior order is correct as those three cases related to the present facts. In addition; this Court staid to follow the logic expressed in pages 2 to 6 of the Defendants' memo.

As to Defendants' argument found on pages 7 to 11 of it memorandum, this Court views its prior analysis of state law as correct, including but not limiting, the decision that there is a lack of mutuality.

As to the issues raised by the Defendants in their memorandum related to the wrongful death claims and the issue of outrageous tort due to death from Norwegian scabies, the South Carolina case law supports the analysis in the prior order.

As to the non-facility parties asking for a stay, (this Court was under initial the impression answers has already been filed by them) the prior order does not require altering.

The Court appreciates everyone's attention and cooperation while this matter was being reviewed.



Spartanburg Common Pleas

Case Caption: Maggie Mccraw , plaintiff, et al VS Fundamental Clinical And Operational Services, Llc , defendant, et al

Case Number: 2019CP4202449

Type: Order/Electronic Form 4

IT IS SO ORDERED

s/ J. Mark Hayes, II #2132