

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Jan 08 2021

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Perry H. Gravely, Circuit Court Judge

Appellate Case No. 2020-001150

Joshua Hawkins,Appellant,

v.

American Airlines, The Qantas Group d/b/a Qantas Airlines, Expedia, and Travel Guard
Insurance, Defendants,

Of whom American Airlines and Expedia are the.....Respondents.

APPELLANT'S INITIAL REPLY TO EXPEDIA'S BRIEF

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REPLY

The appellant has set forth arguments related to Expedia in other briefs, and those arguments are incorporated here. Expedia starts out acknowledging substantive problems with its position in an attempt to accuse the appellant of not relying on authority. Expedia states, “Without citation to authority, the Plaintiff makes the sweeping assertion that all arbitrations are unconstitutional.” The funny thing is Expedia’s lawyers had to type the root word “Constitution” when writing that sentence, and the Constitution is the most important authority of all. The Seventh Amendment of the Constitution guarantees something stripped away in every arbitration clause. That is why the cases cited in the appellant’s briefs have limited arbitration at times.

Expedia then goes on to say – again because it does not want to deal with the serious constitutional issues with its position – that the appellant’s constitutional arguments are waived because they were made without authority. Naturally, since the appellant cited not only to the Constitution itself as well as case law, he has not waived any arguments.

Expedia makes reference to its terms, which are well-hidden from anyone using Expedia to purchase air fare. As the appellant stated in other briefs, the terms are hidden; a purchaser is not even required to see them or know they exist before a purchase is made.

Expedia then sets forth the factually incorrect argument that the appellant did not raise certain issues in the Trail Court. Expedia’s hidden terms were discussed during the hearing on Expedia’s motion to dismiss, and all issues related to the hearing were doubly preserved with a Rule 59(e) SCRCF motion. Expedia simply does not like statements related to its hidden terms because its terms are just that – hidden. To be clear, there were not terms to “pop up” as insinuated by Expedia. If there had been, the terms would have been visible to a purchaser, which they were not. Expedia’s claim that its terms are readily available because they appear

under a bold heading fares no better than its other argument because of how well the heading is buried. No reasonable person could be expected to unilaterally hunt for a limitation on the Seventh Amendment when it is not required to make a purchase.

CONCLUSION

For the foregoing reasons, the appellant respectfully requests the Court reverse the Circuit Court's dismissal of the appellant's claims against Expedia.

Respectfully submitted,

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PROOF OF SERVICE

I certify that I have served a copy of the Appellant's Initial Reply to Expedia's Brief, electronically to the Court of Appeals, and to the following attorneys of record for the Respondents to the following electronic addresses, on this date January 8, 2021.

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Respectfully submitted,

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Jenny Abbot Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

Re: *Joshua Hawkins v. American Airlines and Expedia*
App. Case No. 2020-001150

Dear Ms. Kitchings:

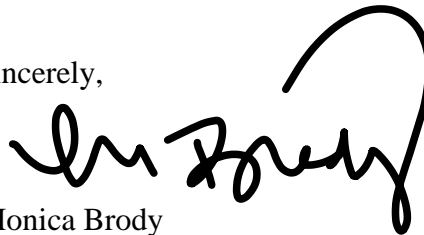
Please find enclosed for filing Appellant's Reply Brief as to Expedia, in the above-mentioned case. The deadline for our Reply to Expedia was calculated from the filed date of the Court of Appeals Order allowing Expedia to file their Respondent's Brief out of time. Please advise if that deadline was not proper and if a motion for an extension of time is needed.

Based on today's filing of our Reply to Expedia, I calculate the deadline for the Record on Appeal to be Monday, February 8, 2021. Please advise if that is not correct.

With this correspondence, we are serving counsel for the respondent.

Should you have any questions, please do not hesitate to contact our office.

Sincerely,



Monica Brody
Paralegal

Enclosures

CC: via electronic mail only

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