14-1288

FILED

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2014 MAR 14 PM 3: 02

CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

RICHARD PARSONS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 13-C-2241
	)	Judge Stucky
HALLIBURTON ENERGY SERVICES, INC.,	)	
	)	
Defendant.	)	

ORDER GRANTING MOTION TO COMPEL ARBITRATION AND DISMISS PLAINTIFF'S COMPLAINT

The Court having reviewed and considered Defendant's Motion to Compel Arbitration and Dismiss Plaintiff's Complaint does hereby find as follows:

Findings of Fact

1. Plaintiff Richard Parsons ("Plaintiff") initiated this legal action in the Circuit Court of Kanawha County, West Virginia on December 3, 2013, alleging that he was not timely paid his final wages in violation of the West Virginia Wage Payment and Collection Law. Plaintiff also sought to represent a class of employees who, allegedly, were likewise not timely paid their final wages. *See* Complaint.

2. The Complaint was served on January 6, 2014.

3. In completing and submitting his application for employment to Defendant Halliburton Energy Services ("Halliburton"), Plaintiff agreed as follows:

> I agree that, in return for its consideration of my application for employment, any dispute between Halliburton and me related to the application process will be resolved under the Halliburton Dispute Resolution Program ("DRP"), and that I may obtain a copy of the DRP from the Human Resources Department. I understand that this means that disputes involving legal issues must be submitted to binding arbitration,

> and that I am waiving any right to maintain a lawsuit or have a jury trial for any such dispute. I also understand that this does not obligate Halliburton to employ me, but that if I am employed, any dispute between Halliburton and me relating to my employment also will be subject to the DRP.

4. On May 15, 2013, Plaintiff was formally offered employment with Halliburton.

5. Plaintiff's offer letter from Halliburton stated as follows:

> Your acceptance of employment means you also agree to and are bound by the terms of the Halliburton Dispute Resolution Program, [which] binds the employee and the Company to handle workplace problems through a series of measures designed to bring to timely resolution. This will be true both during your employment and after your employment should you terminate.

6. The DRP, to which Plaintiff agreed and which was incorporated by reference into his offer letter, is clear with respect to the arbitration requirement. Specifically, Plaintiff agreed that "[a]ll disputes . . . shall be finally and conclusively resolved through arbitration under this Plan and the Rules, instead of through trial before a court" and that "[p]roceedings under the Plan, including arbitration, shall be the exclusive, final and binding method by which [d]isputes are resolved."

7. Furthermore, the DRP provides an effective and fair means of finally resolving any dispute that may arise from the employment relationship. It requires that all disputes that are not resolved informally be submitted to binding arbitration before an independent and neutral arbitrator appointed by the American Arbitration Association or other independent dispute resolution association. It also facilitates resolution of disputes without the expense and delay of court litigation, permits representation of the employee by legal counsel, provides for discovery in accordance with the Federal Rules of Civil Procedure, and authorizes an award of attorney's fees to employees who prevail in arbitration even in the absence of a statute authorizing such an award. In addition, Halliburton-related companies maintain an Employment Legal Consultation

Plan that provides employees up to $2,500 in fees and expenses for legal services used to resolve a work-related complaint under the DRP, regardless of the outcome of the proceeding, and Halliburton pays the administrative fees and expenses of the arbitration proceeding.

8. The DRP does not restrict or limit an employee's substantive legal rights under any statute or other law and places no limitation on available remedies, as set forth in Rule 30 of the DRP:

> The arbitrator's authority shall be limited to the resolution of legal Disputes between the Parties. As such, the arbitrator shall be bound by and shall apply applicable law including that related to the allocation of the burden of proof as well as substantive law. The arbitrator shall not have the authority either to abridge or enlarge substantive rights available under applicable law. . . .

Thus, all employees of Halliburton may obtain the same relief in arbitration that they can in court.

9. Plaintiff's employment was terminated on or about October 21, 2013. Plaintiff now brings this claim, which relates to his employment.

10. On January 6, 2014, with the Complaint, Plaintiff served Defendant with discovery requests, as provided by the Rules of Civil Procedure.

11. In lieu of providing extensive discovery responses to these requests, former counsel for Defendant, Craig Snethen, asked Plaintiff's counsel to short-cut that process, and agreed to provide Plaintiff with a summary of the potentially affected employees and requested a 45-60 day extension of time to respond to the Complaint.

12. On April 21, 2014, Mr. Snethen requested another extension of time to respond to the Complaint. It is undisputed that Plaintiff granted these extensions.

13. At the end of May, before responding to the Complaint, Mr. Snethen took an unexpected leave of absence from the law firm of Jackson Lewis, P.C.

14. On June 23, 2014, undersigned counsel for Defendant, Marla N. Presley, entered her appearance, and on July 8, 2014, she filed the Motion to Dismiss.

15. At no time during the extension period did Plaintiff take any steps to seek default or advise Defendant that a default judgment was being sought. At no time did Plaintiff intimate that the parties were no longer operating under an extension of time, or suggest that Defendant was in default.

16. The Motion to Dismiss was filed six months after the Complaint was served, and three months after Plaintiff confirmed that Defendant had an extension of time to respond to the Complaint.

Conclusions of Law

17. Arbitration is highly favored "as a less formal and more efficient means of resolving disputes than litigation." *Hightower v. GMRI, Inc.*, 272 F.3d 239, 241 (4th Cir. 2001). Moreover, avoiding the costs of litigation is "a benefit that may be of particular importance in employment litigation, which often involves smaller sums of money than disputes concerning commercial contracts," and the Federal Arbitration Act ("FAA") should be construed to promote the "efficacy of alternative dispute resolution procedures adopted by many of the Nation's employers." *Circuit City Stores, Inc. v. Adams,* 532 U.S. 105 (2001).

18. Section 2 of the FAA provides that a written arbitration agreement "shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract." 9 U.S.C. § 2; *New v. GameStop*, 753 S.E.2d 62 (W.Va. 2013). The federal and state courts have concurrent jurisdiction to enforce an arbitration provision under the FAA. *Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 25 (1983).

19. The FAA mandates the enforcement of arbitration agreements where such agreements (1) are part of a contract or transaction involving commerce and (2) are valid under general principals of contract law. 9 U.S.C. § 2; *Doctor's Assocs., Inc. v. Casarotto*, 517 U.S. 681, 687–88 (1996).

20. The United States Supreme Court has held that the FAA's reference to commerce in Section 2 reflects Congress' intent to extend the FAA's coverage to the limits of federal power under the Commerce Clause. *Allied-Bruce Terminix Cos. v. Dobson*, 513 U.S. 265, 268 (1995). The Court observed that the determination of whether a transaction or contract "involves" commerce requires an expansive construction of the term in order to effectuate Congress' goal of encouraging alternative dispute resolution mechanisms. *Id.* Accordingly, the Court held that a matter "involves" commerce under the FAA if it merely "affects" commerce, a standard commonly applied by the court to situations in which it is clear that Congress intended to exercise its Commerce Clause powers to the fullest extent. *Id.* Furthermore, the FAA's coverage extends to employment contracts that involve such commerce. *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105, 122–23 (2001).

21. Plaintiff's employment relationship with Halliburton involved and affected interstate commerce. Halliburton, a Texas based company, is in the business of selling hydrocarbon extraction and production services to its customers—national and multinational hydrocarbon production companies. Plaintiff was employed by Halliburton as an Operator Assistant in West Virginia and worked in a position that provided support for Halliburton's operations in West Virginia and surrounding states. *Id.* As an Operator Assistant, for example, Plaintiff provided support to well completion services for Halliburton's customers and, as a

result, was directly involved in facilitating the interstate sale of oil and gas. *Id.* Thus, Plaintiff's employment relationship with HES directly involved and affected interstate commerce.

22. Whether a party has agreed to arbitrate a particular dispute is an issue for the Court to be decided as a matter of contract. *Johnson v. Circuit City Stores, Inc.*, 148 F.3d 373, 377 (4th Cir. 1998) (citations omitted). In deciding this question, the Court should apply state-law principles that govern the formation of contracts. *Id.* Specifically, when a trial court is required to rule upon a motion to compel arbitration pursuant to the FAA, the authority of the trial court is limited to determining the threshold issues of (1) whether a valid arbitration agreement exists between the parties and (2) whether the claims averred by the plaintiff fall within the substantive scope of that arbitration agreement. *State ex rel. TD Ameritrade, Inc. v. Kaufman*, 692 S.E.2d 293 (W.Va. 2010).

23. Nevertheless, the Court must keep in mind that the FAA embodies "a liberal federal policy favoring arbitration agreements," *Gilmer v. Interstate/Johnson Lane Corp.*, 500 U.S. 20, 25 (1991), and resolve any ambiguity in favor of arbitration. The strong federal policy in favor of arbitration applies equally in the employment context. As the United States Supreme Court has noted:

> We have been clear in rejecting the supposition that the advantages of the arbitration process somehow disappear when transferred to the employment context. Arbitration agreements allow parties to avoid the costs of litigation, a benefit that may be of particular importance in employment litigation . . . .

Circuit City Stores, Inc. v. Adams, 532 U.S. 105, 122 (2001).

24. The Fourth Circuit has upheld the validity of an arbitration agreement in job applications. *Adkins v. Labor Ready, Inc.*, 303 F.3d 496 (4th Cir. 2002). Furthermore, the West Virginia Supreme Court of Appeals has consistently upheld arbitration provisions in employment

contracts, *See e.g., New v. GameStop*, 753 S.E.2d 62 (W.Va. 2013); *State ex rel. Wells v. Matish*, 600 S.E.2d 583 (W.Va. 2004), and courts throughout the State of West Virginia have routinely upheld arbitration provisions in stand-alone agreements. *See Tudor v. United Healthcare Services*, Civil Action No. 11-C-1088, Circuit Court of Kanawha County; *Collier v. Kmart Corp.*, Civil Action No. 12-C-1556, Circuit Court of Kanawha County.

25. "The doctrine of unconscionability means that, because of an overall and gross imbalance, one-sidedness or lop-sidedness in a contract, a court may be justified in refusing to enforce the contract as written." Syllabus Point 6, Syllabus Point 12, *Brown v. Genesis Healthcare Corp.*, 729 S.E.2d 217, 220 (W.Va. 2012)(*Brown II*), *citing Brown v. Genesis Healthcare Corp.*, 724 S.E.2d 250 (W.Va. 2011). "Unconscionability is an equitable principle, and the determination of whether a contract or a provision therein is unconscionable should be made by the court." *Brown II*, 729 S.E.2d at 221. A contract is unenforceable only if it is both procedurally and substantively unconscionable. *Id.* at syl. pt. 9.

26. "Procedural unconscionability involves a variety of inadequacies that result in the lack of a real and voluntary meeting of the minds of the parties..." *Id.* at syl. pt. 10. Without evidence that an employee is incapable, due to age, literacy, or lack of sophistication, of understanding the clear terms of the arbitration agreement, there is no procedural unconscionability. *See, e.g., New v. Gamestop*, 753 S.E.2d 62 (W.Va. 2013) ("the petitioner's bald assertions that the agreement is procedurally unconscionable because the agreement was not subject to negotiation and because she was unemployed and had no other meaningful alternatives available to her other than to sign the Acknowledgment are simply not sufficient.").

27. "Substantive unconscionability involves unfairness in the contract itself and whether a contract term is one-sided and will have an overly harsh effect on the disadvantaged

party." *Brown II,* 729 S.E.2d at 221, syl. pt. 12. In assessing substantive unconsionability, the paramount consideration is mutuality. *State ex rel. Richmond American Homes of W.Va., Inc. v. Sanders,* 717 S.E.2d 909, 921 (W.Va. 2011). A mutual agreement to arbitrate in no way creates "a disparity in the rights of the contracting parties such that it is one-sided and unreasonably favors" an employer. *See, e.g., New v. Gamestop,* 753 S.E.2d 62 (W.Va. 2013).

28. Notwithstanding the fact that Plaintiff has not challenged the validity of the Agreement, the Court has analyzed the Agreement in accordance with West Virginia law and finds that the Agreement to Arbitrate is a valid contract. *See Johnson Controls, Inc., supra*; *State ex rel. Clites v. Clawges,* 685 S.E.2d 693 (W.Va. 2009).

29. Specifically, under West Virginia law, Plaintiff, as well as Halliburton, agreed to be bound by the DRP with respect to all disputes within its coverage on two separate occasions: by signing the offer letter and when he applied for employment, both of which made clear that he must arbitrate claims under the DRP. Plaintiff was offered employment by Halliburton, the terms of which were set forth in an offer letter. The offer letter referenced the DRP stated that by accepting employment he was also agreeing to be bound by the terms of the DRP for employment-related issues both during and after his employment. Parsons agreed to the terms of the offer letter, thus agreeing to the terms of the DRP – terms that include the requirement that he arbitrate all employment-related disputes. Furthermore, as part of his online application to work for Halliburton, Plaintiff agreed to language in the employment application, which, mirroring the DRP, indicated that "any dispute between [Halliburton] and [Plaintiff] relating to [his] employment [] will be subject to the DRP."

30. Moreover, there is consideration for Plaintiff's promise to submit all employment disputes to arbitration in the employer's reciprocal promise to do the same. *See O'Neil v. Hilton*

Head Hosp., 115 F.3d 272, 275 (4th Cir. 1997) (a mutual promise to arbitrate constitutes sufficient consideration for the arbitration agreement); *Adkins v. Labor Ready, Inc.,* 303 F.3d 496, 501 (4th Cir. 2002) (employer's agreement to be bound by the arbitration process constitutes sufficient consideration to support an agreement to arbitrate an employee's claims under West Virginia law). Additionally, the DRP provides additional consideration to Plaintiff in the form of the Legal Consultation Plan, in which Halliburton agrees to reimburse employees up to $2,500 per twelve-month period for legal fees incurred in connection with pursuing claims through the DRP, and its agreement to pay all administrative costs associated with arbitration except for the payment of a $50 processing fee. Accordingly, the subject provision is a valid, enforceable contract with Plaintiff to arbitrate disputes.

31. Furthermore, applying West Virginia law, the agreement is not unconscionable. Plaintiff agreed to and acknowledged, on multiple occasions, that he would submit any claims related to his employment to arbitration. Indeed, not only was Parsons made aware of the DRP at the time he applied for employment with HES, but also, Parsons agreed to arbitrate his claims when he signed the offer letter to begin employment.

32. Moreover, the provision in the employment application that addresses the DRP stands alone, is brief, and clearly advises Parsons that arbitration means forgoing any jury trial in dispute with HES. HES made no effort to hide the provision or to mislead Parsons regarding its meaning. Parsons agreed to that provision specifically and individually, rather than agreeing to a contract in which an arbitration provision is including among many other clauses and provisions. Additionally, the availability of the DRP further denigrates any notion that Parsons was somehow duped or unknowingly tricked into agreeing to be bound by the arbitration provision. Thus, the manner in which the DRP was presented, and the straightforward nature of the

provision precludes any argument that the parties' agreement to arbitrate is procedurally unconscionable. *State of West Virginia ex. rel Ocweb Loan Servicing, LLC v. Webster*, 752 S.E.2d 372, 388-89 (2013) (finding no procedural unconscionability in adhesion contract where, among other things, the arbitration provision was "plainly worded" and "conspicuously placed").

Here, both Parsons and HES are obligated to arbitrate any claims relating to Parsons' employment. Furthermore, the DRP's additional terms apply equally to both Parsons and HES: it permits both parties to be represented by legal counsel, permits both parties to conduct discovery under the Federal Rules of Civil Procedure, and places no restrictions on remedies. It also does not impose any financial burdens on employees greater than what they would incur in court. In fact, HES pays all administrative costs of arbitration beyond a nominal filing fee and provides all employees up to $2,500 in fees and expenses for legal services used to resolve a work-related complaint under the DRP, regardless of the outcome of the proceeding.

33. The Court finds that Plaintiff's claims fall within the scope of the agreement to arbitrate. The DRP broadly encompasses all employment-related disputes including:

> [A]ll legal and equitable claims, demands, and controversies, of whatever nature or kind, whether in contract, tort, under statute or regulation, or some other law, between persons bound by the Plan or by an agreement to resolve Disputes under the Plan, or between a person bound by the Plan and a person or entity otherwise entitled to its benefits, including, but not limited to, any matters with respect to:
>
> ***
>
> 2. The employment or potential re-employment of an Employee, including the terms, conditions, or termination of such employment with the Company;

34. Parsons' claim that he was not timely paid his final pay is within the category of claims covered by the DRP because it relates directly to the termination of his employment. Moreover, were there any doubt as the scope of the DRP, any such doubt must be resolved in

favor of arbitration. Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp., 460 U.S. 1, 24, 103 S. Ct. 927 (1983).

35. Based on the Court's review of the circumstances and the protections provided to the parties under the agreement to arbitrate, the Court finds that the subject agreement is fair and not unconscionable, but is enforceable in accordance with the holdings of the Supreme Court and the provisions of the FAA.

36. Under the FAA, once the Court determines that there is a valid and enforceable arbitration clause covering the claim at issue, the Court should stay all proceedings and order the parties to arbitration. 9 U.S.C. § 3. Although Section 3 of the FAA discusses a stay, the dismissal of all claims subject to arbitration is not inconsistent with this provision. *Dean Witter Reynolds, Inc. v. Byrd,* 470 U.S. 213, 218 (1985) (when the dispute is subject to arbitration, the FAA "leaves no place for the exercise of discretion by a district court, but instead mandates that district courts shall direct the parties to proceed to arbitration"); *FedMet v. M/V Buyalyk,* 194 F.3d 674, 676 (5th Cir. 1999) ("district courts have discretion to dismiss cases in favor of arbitration under 9 U.S.C. § 3"); *Alford v. Dean Witter Reynolds, Inc.,* 972 F.2d 1161, 1164 (5th Cir. 1992) (holding that "the weight of authority clearly supports dismissal of the case when all of the issues raised in the district court must be submitted to arbitration"). Because all of Plaintiff's claims are subject to arbitration, after ordering the parties to arbitration, the Court may – and does – dismiss the Complaint in its entirety, with prejudice.

37. In response to Defendant's Motion to Dismiss, Plaintiff filed a Response in Opposition, claiming that Defendant had waived its right to arbitration.

38. As a matter of law, "any doubts concerning the scope of arbitrable issues [such as an allegation of waiver] should be resolved in favor of arbitration." *Barker v. Golf,* 154 F.3d 788 (8th Cir. 1998) *citing Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp,* 460 U.S. 1 (1983).

39. In analyzing whether a party has waived its right to arbitration, the Court looks to whether:

a. The party actively participated in the lawsuit;

b. The litigation machinery had been substantially invoked;

c. There had been long delay in seeking arbitration;

d. The defendant invoked the Court's jurisdiction by filing a counter-claim;

e. Important litigation steps have been commenced (i.e. discovery); and

f. The other party was prejudiced.

In re Tyco International, 422 F.3d 41 (1st Cir. 2005).

40. Taken individually or as a whole, Plaintiff has not met this burden.

41. Defendant has not actively participated in this lawsuit. From the time of filing the Complaint and serving the discovery (which Plaintiff would have done regardless) there has been no active litigation.

42. Plaintiff's counsel has expended no fees, conducted no additional discovery, taken no depositions, and drafted no additional pleadings. There has been no motions practice before the Court and Defendant has filed no pleadings prior to the Motion to Dismiss.

43. In each of the cases cited by Plaintiff in his opposition, the case had progressed to (and sometimes through) trial before the issue arbitration was raised.

44. For instance, in *Roberts v. El Cajon Motors, Inc.*, 2011 Cal. App. LEXIS 1399 (Cal. App. 4th, Nov. 8, 2011), the court, while *not* addressing the stand alone issue of delay,

noted that waiver had occurred in that case because the parties had been *actively litigating* the case toward trial (including substantial written discovery involving the putative class, the representative plaintiff, the defendant's policies and procedures, whether common issues of fact existed, and prior lawsuits involving the defendant.)

45. In *Baker & Taylor, Inc. v. Alphacraze.com,* 602 F.3d 486 (2d Cir. 2010), the court emphasized that a delay of 8 or 9 months, during which the parties actually litigated the case (including discovery, depositions, and motions practices on the merits), could be a waiver.

46. Similarly, in *E.C. Ernst, Inc. v. Manhattan Construction Co. of Texas,* 551 F.2d 1026 (5th Cir. 1977), the court found that the defendant has waived its right to arbitration after 2.5 years of active litigation.

47. A six-month delay, even coupled with the filing of an answer and the taking of depositions does not, in and of itself, constitute waiver. *See, e.g., Rota-McLarty v. Santander Consumer USA, Inc.*, 700 F.3d 690 (4th Cir. 2012); *see also, Schall v. Adecco,* 2011 U.S. Dist. LEXIS 8884 (E.D. Pa. Jan. 28, 2011).

48. In *Adecco,* Schall filed an action on May 25, 2010. On July 26, 2010 Adecco filed its Answer, raising seven affirmative defenses, but did not raise arbitration. The parties attended a scheduling conference on November 10, 2010, and the Court set a trial date for July 5, 2011. Adecco moved to compel arbitration on January 4, 2011, seven months after the plaintiff instituted the action. The Plaintiff opposed arbitration, alleging that Adecco had intentionally waited to seek arbitration until it had obtained her responses to the company's interrogatories and document requests.

49. The Court held that "a seven-month delay does not weigh heavily in [the opposing party's] favor." *Schall v. Adecco,* 2011 U.S. Dist. LEXIS 8884 at *4, *citing Peltz ex*

rel. v. Sears, Roebeck & Co., 367 F.Supp. 2d 711, 722 (E.D. Pa. 2005)(granting motion to compel arbitration despite seven-month delay during which moving party filed two motions to dismiss, answered interrogatories, and conducted a deposition.); *see also Gray Holdco, Inc. v. Cassady,* 2010 WL 4687744 at *3 (W.D. Pa. Nov. 10, 2010)(comparing cases in which courts concluded a party waived arbitration rights after delays exceeding eleven months.)

50. The Court further held that a party's first motion, if it seeks to compel arbitration, "weighs against a finding of waiver" as it shows the parties have not been engaged in costly motions practice. *Schall v. Adecco,* 2011 U.S. Dist. LEXIS 8884 at *4 *citing FCMA, LLC v. Fujifilm Recording Media U.S.A., Inc.,* 2010 WL 30764686 at *4 (D.N.J. Aug. 5, 2010)(granting motion to compel arbitration where the defendants filed no prior motions for affirmative relief).

51. Because there has been no active litigation, and Defendant has not otherwise invoked the Court's jurisdiction, the Court finds that Defendant has not waived its right to arbitration.

52. Further, though Defendant admits there was a six-month delay in moving for arbitration, Plaintiff has not shown prejudice.

53. "When one party reveals a disinclination to resort to arbitration on any phase of suit involving all parties, those parties are prejudiced by being forced to bear the expense of a trial." *See Ernst, supra.*

54. The fact that neither party has taken a deposition "strongly suggests that [the moving party's delay] did not prejudice the opposing party. *Schall v. Adecco,* 2011 U.S. Dist. LEXIS 8884 at *5, *see also, Katel LLC v. AT&T Corp.,* 2004 WL 1192072 at *1 (S.D.N.Y. May 28, 2004).

55. While delay may cause some "inconvenience," and potentially some additional expense, absent some showing of intensive involvement litigation, it simply does not constitute waiver. *Schall v. Adecco,* 2011 U.S. Dist. LEXIS 8884 at *4, *see also, Windward Agency, Inc. v. Cologne Life Reins. Co.,* 1997 WL 164269 at *4 (E.D. Pa. Apr. 1, 1997)("Delay alone, without any prejudice to the opposing party, aside from expense and inconvenience will not constitute waiver.") (quoting *Rush v. Oppenheimer & Co.,* 779 F.2d 885, 887 (2d Cir. 1985)).

56. In every case cited by Plaintiff to show prejudice, the parties were well into the litigation process.

57. Here, Plaintiff is in the *exact same position* he would have been had Defendant moved to dismiss days later, as opposed to months later.

58. Because Defendant has not actively engaged in the discovery process, has not acted inconsistently with its right to arbitration, and because Plaintiff has shown no prejudice, the Court finds that Defendant did not waive its right to arbitration.

WHEREFORE, the Court finds that all of Plaintiff's claims are subject to arbitration, and after ordering the parties to arbitration, the Court may – and does – dismiss the Complaint in its entirety, with prejudice.

The CLERK is directed to forward copies of this Order to all counsel of record.

SO ORDERED THIS 14 day of NOV, 2014.

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE COPY FROM THE RECORDS OF SAID COURT
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 14th DAY OF November 2014
Cathy S. Gatson CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

James C. Stucky
Honorable James C. Stucky
Judge, Circuit Court of Kanawha County, West Virginia

Presented by:

JACKSON LEWIS P.C.

By: _____

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