SUPERIOR COURT OF CALIFORNIA
COUNTY OF VENTURA

Tentative Ruling

2024CUWT033072: DULCE SOFIA GONZALEZ FLORES vs DIVERSIFIED RESTAURANT GROUP LLC, et al.
05/06/2025 in Department 42
Motion to Compel Arbitration and Dismiss, or in the Alternative, Stay Proceeding

Motion: Defendants Diversified Restaurant Group, LLC's, Angel City Bell, LLC's, and Mauricio Huerta's Motion to Compel Arbitration of the Claims in Plaintiff Dulce Sofia Gonzalez Flores's Complaint, and to Dismiss this Action or, Alternatively, to Stay It Pending Arbitration (Opposed)

Tentative Ruling:

The Court denies Defendants Diversified Restaurant Group, LLC's, Angel City Bell, LLC's, and Mauricio Huerta's request for an order compelling arbitration of the claims in Plaintiff Dulce Sofia Gonzalez Flores' Complaint and dismissing or staying this action, on the grounds that (i) Defendants fail to either submit a copy of the alleged arbitration agreement or quote its material terms verbatim, and therefore fail to demonstrate the existence of an agreement to arbitrate; and (ii) even if Defendants had demonstrated the existence of an agreement to arbitrate, Plaintiff submits evidence indicating that she timely disaffirmed any such agreement, thereby rendering it unenforceable under Family Code §6710.

Background:

Plaintiff Dulce Sofia Gonzalez Flores' (by and through her guardian ad litem Dora Gonzalez Flores) Complaint asserts causes of action against Defendants Diversified Restaurant Group, LLC ("DRG"), Angel City Bell, LLC ("ACB"), and Mauricio Huerta for (1) sexual harassment (hostile work environment); (2) sexual harassment (quid pro quo); (3) gender-based discrimination (disparate treatment); (4) assault; (5) battery; (6) retaliation; (7) failure to prevent harassment/discrimination/retaliation; (8) intentional infliction of emotional distress; (9) violation of Article I, Section 8 of the California Constitution; (10) negligent hiring/training/supervision/retention of employees; and (11) constructive discharge in violation of public policy.

Defendants Diversified Restaurant Group, LLC ("DRG"), Angel City Bell, LLC ("ACB"), and Mauricio Huerta move for an order (i) compelling arbitration of the claims in Plaintiff Dulce Sofia Gonzalez's Flores' Complaint; and (ii) dismissing this action, or staying it pending completion of the arbitration.

DRG/ARB argue that Plaintiff was an employee and signed an arbitration agreement electronically that encompasses the claims she purports to bring in this lawsuit. Following her resignation, Plaintiff filed the instant action. DRG/ACB contends the agreement is governed by the FAA and that the agreement is not unconscionable and should be enforced.

Plaintiff opposes, and argues that Plaintiff was a minor when she signed the agreement and promptly after she turned 18, she disaffirmed the agreement by filing her lawsuit. As a result, Plaintiff contends the agreement is no longer enforceable. In California, a minor has the absolute right to disaffirm a contract. This "right of disaffirmance" explicitly states that "a contract of a minor may be disaffirmed by the minor before majority or within a reasonable time afterwards or, . . . by the minor's heirs or personal representative." The law "shields minors from their lack of judgment and experience and confers upon them the right to avoid their contracts. . . ." Moreover, "[d]isaffirmance may be made by any act or declaration indicating intent to disaffirm . . . [and] [w]hatever the method, disaffirmance by a minor rescinds the entire contract, rendering it a nullity." J.*R. v. Electronic Arts Inc.* (2024) 98 Cal.App.5th 1107, 1115); *Coughenour v. Del Taco, LLC* (2020) 57 Cal.App.5th 740, 748; *Berg v. Traylor* (2007) 148 Cal.App.4th 809, 820.) No specific language is required to communicate an intent to disaffirm. (*Id.;* see also Family Code §6710.)

Analysis:

A. The Substantive Merits of Defendants' Motion to Compel Arbitration of Plaintiff's Complaint and Dismiss or Stay this Action

1. Governing Law

Defendants seek an order compelling arbitration of Plaintiff's claims against it under both the Federal Arbitration Act ("FAA") and California Arbitration Act ("CAA"). (*See* Notice of Motion, 2:13-16.) Both Acts authorize a stay of the court action pending completion of such arbitration (*compare* Code of Civil Procedure §1281.4 *with* 9 U.S.C. §3). Moreover, both §1281.2 of the CAA and §4 of the FAA require that the moving/petitioning party demonstrate both (i) the existence of a written agreement to arbitrate; and (ii) that a party to the agreement refuses to arbitrate. (*See* Code of Civil Procedure §1281.2; 9 U.S.C. §4.) Regardless of whether the FAA or the CAA applies, construction of the arbitration agreement is governed by state law principles applicable to contracts. (*Logan v. Country Oaks Partners, LLC* (2022) 82 Cal.App.5th 365, 370; *Sonic-Calabasas A, Inc. v. Moreno* (2013) 57 Cal.4th 1109, 1136.)

Because the resolution of this motion turns on the application of California law relating to contract, and because no showing has been made that there is any significant difference between the FAA or CAA with respect to the issues raised in the present motion, the Court applies California law and its procedural rules applicable to motions/petitions to compel arbitration.

2. Failure to Demonstrate the Existence of an Agreement to Arbitrate

Under both the CAA and the FAA a party seeking to compel arbitration must demonstrate both (i) the existence of an agreement to arbitrate; and (ii) the opposing party's refusal to arbitrate. Plaintiff has failed to demonstrate the existence of an agreement to arbitrate, perhaps because Defendant DRG's Director of Risk Management/Legal Thantacheva appears to have inadvertently failed to attach a copy of the arbitration agreement to his declaration. (*Id.* at ¶5

[stating that a "true and correct copy of the document that Plaintiff executed on May 25, 2023 is attached here as Exhibit 'A'," although no Exhibit A is attached.)

3. Plaintiff Demonstrates Grounds for Refusing to Enforce the Arbitration Agreement

Even if Defendants had demonstrated the existence of an agreement to arbitrate Plaintiff's claims against Defendants and Plaintiff's failure to agree to arbitration**,** the Court would not enforce the arbitration agreement here.

The burden of proof is on Plaintiff to demonstrate a sufficient ground for refusing to enforce the arbitration agreement. (See *Engalla v. Permanente Medical Group, Inc.* (1997) 15 Cal.4th 951, 972.) Plaintiff argues against enforcement of any arbitration agreement on the grounds that (i) any arbitration agreement entered into by Plaintiff on May 25, 2023, was entered into when she was a minor; (ii) because Plaintiff was a minor and pursuant to Family Code §6710, Plaintiff had a right to disaffirm the arbitration agreement; and (iii) Plaintiff timely disaffirmed the arbitration agreement.

All three grounds are supported by the evidence in the record. In particular, the standards for what constitutes a disaffirmance of a contract are liberal: "A contract (or conveyance) of a minor may be avoided by any act or declaration disclosing an unequivocal intent to repudiate its binding force and effect. [Citations.]" (*Spencer v. Collins* (1909) 156 Cal. 298, 303 [decided under a former version of the statute codified in Civil Code §35].) The filing of an action inconsistent with a contract appears to constitute a sufficient disaffirmance. (See, e.g., *Celli v. Sports Car Club, Inc.* (1972) 29 Cal.App.3d 511, 517-518 [also decided under former Civil Code §35].) As such, Plaintiff's filing of her Complaint in this action on November 12, 2024, is sufficient to constitute a disaffirmance of the agreement to arbitrate. (*See* Flores Decl., ¶4.)

Plaintiff did not delay in disaffirming the contract. She filed her claims in court just days after her 18th birthday, and just 2.5 months later, filed her declaration in opposition to this motion expressly indicating that she disaffirms any arbitration agreement (*see* Flores' Decl., ¶4). Delays in disaffirmance of as long as 8 months have been held to be within a reasonable time:

> "As stated, pursuant to Family Code section 6710, a contract of a minor made while under the age of 18 may be disaffirmed by the minor himself or herself either before he or she reaches the age of majority or within 'a reasonable time" thereafter. Here, Del Taco, relying on intermediate appellate court cases from other states, contends that the filing of the lawsuit in this case eight months after Coughenour reached the age of majority was not a reasonable time to disaffirm the Agreement. We disagree.
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> "Family Code section 6710 does not provide a definition of 'reasonable time.' ' "[R]easonable time" [is] a question of fact necessarily depending on the circumstances of each particular case.' [Citation.] In *Celli*, supra, 29 Cal.App.3d 511, nine-year-old Ribbs was in the pit area during a car race and was struck and injured by a car during a test race on September 13, 1964. Ribbs possessed a pit pass, which included an acknowledgement of the assumption of the risk of being in the pit, and a waiver of

> liability. [Citation.] Jury verdicts were entered in favor of Ribbs and two other victims. The defendants appealed arguing that the pit passes, which included the waiver of liability, were improperly excluded at trial. [Citation.] On appeal, the court stated, '[T]he release agreements in any event were invalid and unenforceable as to plaintiff Ribbs who at the time of the accident in 1964 was 9 years old.' [Citation.] (Ibid.) It found that the filing of the lawsuit was enough to disaffirm the pit passes.
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> "The court in *Celli* did not specify the time period between the accident and the filing of the lawsuit but the accident occurred in 1964 and the appeal was not decided until 1972. It is reasonable to assume that there was a period of time between the accident and filing of the lawsuit that was similar to, or exceeded, the time period in this case. Del Taco has provided no California statute or case defining the term 'reasonable time' or any case that establishes as a matter of law that eight months was not a reasonable time.
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> "Here, Coughenour worked for almost two years for Del Taco until she reached the age of 18. After she reached majority age, she quit her position after four months and filed her lawsuit within four months of quitting. The filing of the lawsuit was notice that she disaffirmed the Agreement. [Citation.] The trial court did not abuse its discretion by concluding that Coughenour disaffirmed the Agreement within a reasonable time." (*Coughenour v. Del Taco, LLC* (2020) 57 Cal.App.5th 740, 749-750.)

Accordingly, Plaintiff demonstrates that she timely disaffirmed any arbitration agreement in multiple ways (by filing this lawsuit, by filing her declaration in support of her opposition to the present motion), and therefore satisfies her initial burden of demonstrating that any arbitration agreement executed by her on May 25, 2023, is unenforceable.

The Court denies Defendants' motion to compel arbitration.