

IN THE COURT OF COMMON PLEAS  
COLUMBIANA COUNTY, OHIO

DAVID GAMBLE, as the Personal	}	
Representative of the Estate of Janet I.	}	
Gamble, Deceased.	}	
	}	CASE NO. 2018 CV 100
Plaintiff	}	
	}	
-VS-	}	<u>DECISION AND</u>
	}	<u>JUDGMENT ENTRY</u>
VALLEY OAKS CARE CENTER, et. al.,	}	
	}	
Defendants	}	

On July 20, 2018 the Defendants filed their Motion to Stay Proceedings and to Compel/Enforce Arbitration (Defendants' Motion). On August 1, 2018 the Plaintiff filed a multi-branch response seeking alternative relief, either striking the Defendants' Motion or granting an extension of time in which to respond and to compel discovery.

In considering the competing Motions, this Court has read and finds convincing at this juncture the logic of the Fifth District Court of Appeals. In Strader v. Magic Motors of Ohio, Inc., the Fifth District reasoned the circumstances surrounding the nature and execution of an arbitration clause must be developed and presented to the trial court in order to determine if there is a legitimate challenge to its validity. The terms of the agreement standing alone are not sufficient for this purpose. The better course is to permit a reasonable opportunity to discover and present evidence as to the enforceability of the arbitration clause before deciding a motion to compel arbitration.<sup>1</sup>

---

<sup>1</sup> (2007), Not reported in N.E. 2d, 2007 WL 2893422 (Ohio App. Dist. 5), 2007-Ohio-5358, ¶ 29-31.

Upon consideration, the Court hereby denies the Plaintiff's Motion to strike the Defendants' Motion but grants the Plaintiff a reasonable opportunity to conduct discovery before further responding to the Defendants' Motion. The Plaintiff shall be and hereby is permitted to conduct discovery regarding the making and/or enforceability of the Admission Agreement at issue, including the arbitration clause, Article V, Resolution of Disputes/Arbitration. <sup>2</sup>

On or before **August 27, 2018 at 4:00 p.m.** the Defendants shall produce answers to the Plaintiff's Interrogatory No. 38 seeking the identity of every individual involved in the process of admitting Janet Gamble to the Selfridge Leasing, LLC d/b/a Valley Oaks Care Center (Facility), shall produce answers and/or documents that are responsive to the Plaintiff's Request for Production of Documents No. 1, 10, 40, and 62, including production of the entire admissions file, shall identify a deponent or deponents for purposes of Civ. R. 30(B)(5) deposition(s) relative to arbitration, and shall reasonably cooperate with the scheduling of other depositions of all individuals who participated in the admission of Janet Gamble to the Facility.

The Court further grants the Plaintiff's an extension of time until on or before **October 11, 2018 at 4:00 p.m.** in which to respond to the Defendants' Motion. The Defendants are granted leave until on or before **October 18, 2018 at 4:00 p.m.** in which to file any further reply in support of the Defendants' Motion. An oral hearing on the Defendants' Motion is also scheduled for **October 26, 2018 at 11:00 a.m.**

---

<sup>2</sup> Defendants' Motion, Exhibit B.

The Court hereby defers any decision on any other Motion pending as of this time.

IT IS SO ORDERED.

---

Scott A. Washam, Judge

August 7, 2018

cc: Blake A. Dickson, via e-mail(BlakeDickson@TheDicksonFirm.com) and regular U.S. Mail  
Thomas P. Mannion, Esq., via e-mail(Tom.Mannion@lewisbrisbois.com) and regular U.S. Mail