

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
VIRGINIA, RICHMOND DIVISION

Bradby v. Koetting

Civil Action No. 3:25CV26 (RCY) (E.D. Va. June 18, 2026) · No. 3:25CV26 (RCY) · Decided June 18, 2026

SUMMARY

The United States District Court for the Eastern District of Virginia denied three motions to compel individual arbitration in a putative class action arising from a tribal lending scheme. The court held that the delegation and arbitration provisions in the underlying loan agreements were unenforceable under the prospective-waiver doctrine because, in conjunction with governing-law provisions, they prospectively waived state-law remedies and potentially undefined federal-law rights.

CASE DETAILS

COURT	United States District Court for the Eastern District of Virginia, Richmond Division
WRITING FOR THE COURT	Roderick C. Young
JURISDICTION	United States District Court for the Eastern District of Virginia, Richmond Division
DECIDED	June 18, 2026
DOCKET	3:25CV26 (RCY)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought a putative class action alleging RICO, unjust enrichment, and common-law conspiracy claims arising from a tribal lending scheme. Three groups of defendants moved to compel individual arbitration under arbitration and delegation provisions in underlying loan agreements.
STANDARD OF REVIEW	The Federal Arbitration Act governs the enforceability of arbitration agreements. A court may decide a specific challenge to a delegation clause when the plaintiff specifically objects to that clause; arbitration agreements may be invalidated on generally applicable contract-law defenses.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; persuasive only

PARTIES

Jeffrey Bradby, et al., on behalf of themselves and all individuals similarly situated v. Dan Koetting, et al.

TOPICS

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QUESTIONS PRESENTED

1. Whether the defendants' arbitration and delegation provisions were enforceable under the Federal Arbitration Act.
2. Whether the governing-law and arbitration provisions prospectively waived plaintiffs' state-law substantive rights and remedies.
3. Whether the court could decide plaintiffs' specific challenges to the delegation clauses rather than refer those challenges to an arbitrator.

HOLDINGS

1. Because plaintiffs specifically challenged the enforceability of the delegation clauses, the court could consider those challenges despite their overlap with challenges to the arbitration agreements as a whole.
2. Prospective waiver doctrine applies to contractual provisions that prospectively waive state-law substantive rights and remedies, not merely federal statutory rights.
3. The arbitration and delegation provisions in the loan agreements were unenforceable because their governing-law and arbitration terms prospectively waived plaintiffs' state-law substantive rights and remedies and thereby violated public policy.

KEY QUOTATIONS

“Under this doctrine, ‘an agreement that prospectively waives a party’s right to pursue statutory remedies is unenforceable as a violation of public policy.’” (Section IV.B)

“The Court therefore concludes that the delegation clauses and arbitration provisions described herein are unenforceable as a violation of public policy.” (Section IV.B)

FACTUAL BACKGROUND

The action concerns short-term, high-interest loans allegedly issued through a tribal lending scheme involving tribal lending entities and non-tribal servicing companies and their leaders. Plaintiffs were members of a nationwide class settlement in related litigation but allege that the defendants in this action were additional participants not identified until after that settlement. The loan agreements contained arbitration, delegation, AAA-rule incorporation, and governing-law provisions requiring application of tribal law and applicable federal law while excluding state substantive law.

PROCEDURAL HISTORY

Plaintiffs filed the complaint on January 15, 2025. Three groups of defendants filed motions to compel individual arbitration, and the parties submitted opposition, reply, and supplemental-authority briefing. The court denied the motions after concluding that the arbitration and delegation provisions prospectively waived state-law substantive rights and remedies and were therefore unenforceable as contrary to public policy.

DISPOSITION

other

CASES CITED

- *Fitzgerald v. Wildcat*, 687 F. Supp. 3d 756 (W.D. Va. 2023)
- *Forrester v. Penn Lyon Homes, Inc.*, 553 F.3d 340, 342 (4th Cir. 2009)
- *Moses H. Cone Mem’l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 24 (1983)
- *Henry Schein, Inc. v. Archer & White Sales, Inc.*, 586 U.S. 63, 68 (2019)
- *Gibbs v. Sequoia Cap. Operations, LLC*, 966 F.3d 286, 291 (4th Cir. 2020)
- *Rent-A-Center, W., Inc. v. Jackson*, 561 U.S. 63, 68–69 (2010)
- *Viking River Cruises, Inc. v. Moriana*, 596 U.S. 639, 653 & n.5 (2022)
- *Preston v. Ferrer*, 552 U.S. 346, 359 (2008)
- *Hengle v. Treppa*, 19 F.4th 324, 334, 336, 347
- *Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth*, 473 U.S. 614, 637 n.19
- *Gibbs v. Haynes Invs. LLC*, 967 F.3d 332, 340 (4th Cir. 2020)
- *Hayes v. Delbert Services Corp.*, 811 F.3d 666, 676 (4th Cir. 2016)
- *Dillon v. BMO Harris Bank, N.A.*, 856 F.3d 330, 336 (4th Cir. 2017)
- *Harris v. W6LS, Inc.*, 2026 WL 1641195, at *7 (7th Cir. June 5, 2026)
- *Bridges v. Raines*, 2025 WL 3565343, at *4–5 (W.D.N.C. Dec. 10, 2025)
- *Franklin v. Cleo AI Inc.*, 2025 WL 1540924, at *2 (4th Cir. May 30, 2025)
- *Arthur Andersen LLP v. Carlisle*, *Arthur Andersen LLP v. Carlisle*, 556 U.S. 624, 631 (2009)

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