

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Liu v. Barrelet

No. 3:23-cv-02186-RBM-SBC (S.D. Cal. July 28, 2025) · No. 3:23-cv-02186-RBM-SBC · Decided July 28,
2025

SUMMARY

The United States District Court for the Southern District of California denied Blaise Barrelet’s motion for reconsideration of the order compelling arbitration. The court held that Barrelet had failed or refused to arbitrate claims related to the purchase agreement and that the arbitration provision remained valid for those claims, despite California law precluding arbitration of tenancy-related claims. The court directed the Clerk to close the case and ordered the parties to proceed with arbitration before a mutually agreeable arbitrator.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Ruth Bermudez Montenegro
JURISDICTION	United States District Court for the Southern District of California
DECIDED	July 28, 2025
DOCKET	3:23-cv-02186-RBM-SBC
DISPOSITION	other
PROCEDURAL POSTURE	Respondent moved under Federal Rule of Civil Procedure 59(e) for reconsideration and clarification of the court's prior order compelling arbitration under 9 U.S.C. § 4. The court denied reconsideration, reaffirmed its order compelling arbitration of claims related to the Purchase Agreement, and directed the Clerk to close the case.
STANDARD OF REVIEW	A timely motion for reconsideration under the local rule is treated as a motion to alter or amend a judgment under Federal Rule of Civil Procedure 59(e). Reconsideration may be granted for newly discovered evidence, clear error or manifest injustice, or an intervening change in controlling law; it may not be used to raise arguments or evidence that could reasonably have been presented earlier or to take a second bite at the apple.
PRECEDENTIAL VALUE	unpublished

TOPICS

arbitration

motion for reconsideration

civil procedure

breach of contract

contracts

PRACTICE AREAS

civil procedure

arbitration

contracts

real estate

commercial litigation

QUESTIONS PRESENTED

1. Whether Barrelet's motion for reconsideration satisfied the requirements of Federal Rule of Civil Procedure 59(e).
2. Whether Barrelet's refusal to proceed with the proposed arbitration demonstrated a failure, neglect, or refusal to arbitrate under 9 U.S.C. § 4.
3. Whether a valid written arbitration agreement covered Liu's claims concerning the Purchase Agreement despite California Civil Code § 1953(a)(4) and the relationship between the Purchase Agreement and the Lease.
4. Whether the prior order compelling arbitration required the parties to proceed specifically before JAMS.

HOLDINGS

1. Reconsideration was unwarranted because Barrelet's motion largely reasserted arguments made in opposition to the original motion to compel and did not identify newly discovered evidence, clear error or manifest injustice, or an intervening change in controlling law.
2. Barrelet failed or refused to arbitrate because his counsel rejected the arbitration demand, objected to JAMS and the proposed locations, and did not propose an alternative neutral or agree to remote arbitration after Liu offered flexibility.
3. A valid written arbitration agreement covered Liu's claims related to the Purchase Agreement. California Civil Code § 1953(a)(4), as interpreted by the state courts, voided arbitration of tenancy-related claims but did not invalidate arbitration of Liu's Purchase Agreement claims.
4. The prior order did not require the parties to arbitrate specifically before JAMS. The parties were required to arbitrate claims related to the Purchase Agreement and to meet and confer regarding a mutually agreeable arbitrator.

KEY QUOTATIONS

““A Rule 59(e) motion may be granted if ‘(1) the district court is presented with newly discovered evidence, (2) the district court committed clear error or made an initial decision that was manifestly unjust, or (3) there is an intervening change in controlling law.’”” (at 5)

““A motion to reconsider is not another opportunity for the losing party to make its strongest case, reassert arguments, or revamp previously un meritorious [sic] arguments.”” (at 6)

“The Court therefore finds that Barrelet’s continued failure to select a mutually agreeable arbitrator constitutes a failure or refusal to arbitrate.” (at 10)

“It is for the Parties to meet and confer and decide upon a mutually agreeable arbitrator.” (at 12)

FACTUAL BACKGROUND

Barrelet leased a residential property from Liu under a California Association of Realtors form lease after purchasing the property from Liu. The earlier Purchase Agreement contained an arbitration provision, while Barrelet's later state-court claims concerned the lease and security deposit. Liu alleged that Barrelet breached the Purchase Agreement, including by misrepresenting the condition of a vineyard and failing to disclose an open-space easement, and demanded arbitration. Barrelet refused to accept the arbitration demand through JAMS and did not propose an alternative arbitrator or agree to remote arbitration.

PROCEDURAL HISTORY

Barrelet previously sued Liu in California state court for claims arising from a residential lease. Liu separately petitioned this federal court to compel arbitration of claims arising from the preceding real-estate Purchase Agreement. The court granted Liu's motion to compel arbitration on November 22, 2024. Barrelet then filed a timely motion for reconsideration and clarification, which the court denied, finding that the motion largely reasserted arguments previously presented and that the arbitration agreement remained valid for Purchase Agreement-related claims.

DISPOSITION

other

CASES CITED

- *Lal v. California*, 610 F.3d 518, 524 (9th Cir. 2010)
- *Am. Ironworks & Erectors, Inc. v. N. Am. Constr. Corp.*, 248 F.3d 892, 898–99 (9th Cir. 2001)
- *Schroeder v. McDonald*, 55 F.3d 454, 459 (9th Cir. 1995)
- *Ybarra v. McDaniel*, 656 F.3d 984, 998 (9th Cir. 2011)
- *Zimmerman v. City of Oakland*, 255 F.3d 734, 737 (9th Cir. 2001)
- *Tripathi v. Henman*, 845 F.2d 205, 206 n.1 (9th Cir. 1988)
- *Miller v. Transamerican Press, Inc.*, 709 F.2d 524, 526 (9th Cir. 1983)
- *McDowell v. Calderon*, 197 F.3d 1253, 1254 n.1 (9th Cir. 1999)
- *Cooney v. California*, No. 13-cv-01373-BAS (KSC), 2015 WL 3952184, at *2 (S.D. Cal. June 29, 2015)
- *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000)
- *Ausmus v. Lexington Ins. Co.*, No. 08-CV-2342 L(LSP), 2009 WL 2058549, at *2 (S.D. Cal. July 15, 2009)
- *Weeks v. Bayer*, 246 F.3d 1231, 1236 (9th Cir. 2001)
- *Lytton v. S. Cal. Reg'l Rail Auth.*, 683 F. Supp. 3d 1101, 1105 (C.D. Cal. 2023)
- *Ashbey v. Archstone Prop. Mgmt., Inc.*, 785 F.3d 1320, 1323 (9th Cir. 2015)
- *Acquire II, Ltd. v. Colton Real Est. Grp.*, 213 Cal. App. 4th 959, 967 (2013)
- *Mendoza v. Garland*, No. 3:21-CV-01968-JES-MMP, 2023 WL 6050581, at *2 (S.D. Cal. Sept. 15, 2023)

- Pac. Media Workers Guild v. San Francisco Chron., Case No. 17-cv-00172-WHO, 2017 WL 1861853, at *4 (N.D. Cal. May 9, 2017)

OPINION

Liu v. Barrelet

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 WEI LIU, an individual, Case No.: 3:23-cv-02186-RBM-SBC 12 ORDER: Petitioner, 13

v. (1) DENYING MOTION FOR

14

RECONSIDERATION

BLAISE BARRELET as Trustee of the 15

BARRELET FAMILY TRUST,

(2) DIRECTING THE CLERK OF

16

THE COURT TO CLOSE THE CASE

17 Respondent. [Doc. 14] 18 19 20 On April 10, 2024, Petitioner Wei Liu (“Liu”) filed a Motion to
Compel Arbitration 21 (Doc. 4), which the Court granted on November 22, 2024 (Doc. 13). Now
pending before 22 the Court is Respondent Blaise Barrelet’s, as Trustee of the Barrelet Family
Trust, 23 (“Barrelet”) Motion for Reconsideration and Clarification of Order Granting Motion to
24 Compel Arbitration (“Motion for Reconsideration”), which was filed on December 20, 25
2024. (Doc. 14.) Liu filed an Opposition to Barrelet’s Motion for Reconsideration 26
 (“Opposition”) on January 27, 2025 (Doc. 15), and Barrelet filed a Reply in support of his 27
Motion for Reconsideration (“Reply”) on February 3, 2025 (Doc. 16.) 28 The Court finds this
matter suitable for determination without oral argument 1 pursuant to Civil Local Rule 7.1(d)(1).
For the reasons discussed below, the Court 2 DENIES Barrelet’s Motion for Reconsideration and
ORDERS the Clerk of the Court to 3 close the case.

4 I. BACKGROUND

5 A. Barrelet’s State Court Action and Appeal 6 On October 31, 2022, Barrelet filed a Complaint
for (1) Breach of Written Lease, 7 (2) Breach of Implied Covenant of Good Faith and Fair
Dealing, (3) Conversion, and (4) 8 Violation of California Civil Code § 1950.5 against Liu in the
Superior Court of California, 9 County of San Diego, Case No. 37-2022-00043748-CU-BC-CTL
(the “State Court 10 Action”). (Doc. 9-1 at 23–291 [“State Court Complaint”].) Barrelet alleged
that, on or 11 about March 9, 2022, Liu leased Barrelet the residential property located at 16627
Los 12 Morros, Rancho Santa Fe, California 92067 (the “Property”) pursuant to the terms of the
13 California Association of Realtors’ (“CAR”) form Residential Lease After Sale (the 14

“Lease”). (Id. ¶¶ 5, 7.) Pursuant to the terms and conditions of the Lease, Barrelet delivered to Liu \$40,000 to be held as a security deposit. (Id. ¶ 6.) Barrelet alleged that the Lease expired on May 18, 2022 and that he vacated and surrendered possession of the Property in clean and good condition and repair. (Id. ¶¶ 8– 9.) Barrelet then alleged that Liu “wrongfully and intentional[ly] withheld the Security Deposit in bad faith and refused Plaintiff’s repeated requests for return of the deposit.” (Id. ¶ 11.) After Barrelet filed the State Court Complaint, Liu sought an order compelling the case to arbitration based on the arbitration provision in the CAR’s form California Residential Purchase Agreement and Joint Escrow Instructions (the “Purchase Agreement”) that preceded the Lease. (Doc. 9-1 at 67 [Tentative Ruling].) The arbitration provision states: The Parties agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. ... Enforcement of, and any motion to compel arbitration pursuant to, this agreement to arbitrate shall be governed by the procedural rules of the Federal Arbitration Act [“FAA”], and not the California Arbitration Act, notwithstanding any language seemingly to the contrary in this Agreement. (Id. (emphasis added).) Interpreting the plain language of the arbitration provision, the state trial court found that “the arbitration agreement is governed by the ‘procedural rules of the [FAA]’ but not the substantive rules [of the FAA] as the agreement expressly states only the FAA’s ‘procedural rules.’” (Id. at 68.) The trial court then held that California “Civil Code [§] 1953(a)(4) invalidates any provision in a lease that agrees to waive or modify procedural rights in litigation, including the right to a jury trial” and that “[Barrelet’s] complaint asserts breaches and violations of the [Lease] and tenancy related claims[,]” precluding arbitration. (Id.) The California state appellate court affirmed the trial court’s decision. (Doc. 12-1 [Appellate Court Decision] at 2.) The appellate court held that “the plain language of the agreement indicates the parties intended for substantive California law to govern in general and for federal procedural law as set forth in the FAA to govern in the context of the agreement to arbitrate.” (Id. at 6.) Therefore, the appellate court agreed “with the trial court’s conclusion that the arbitration agreement at issue here is governed by the procedural rules of the FAA, and by substantive California state law.” (Id. at 9.) The appellate court then found that California Civil Code § 1953(a)(4), a substantive law that voids the waiver of litigation rights in a dwelling lease or rental agreement as contrary to public policy, voided the arbitration provision as it pertains to disputes concerning the Lease. (Id. at 9– 12.) B. Liu’s Petition and Motion to Compel Arbitration On November 20, 2023, Liu filed a Petition to Compel Arbitration (“Petition”) before this Court pursuant to FAA, 9 U.S.C. § 4. (Doc. 1 [“Petition”].) In contrast to Barrelet’s State Court Complaint, which alleged breaches of the Lease by Liu, in her Petition, Liu alleged breaches of the Purchase Agreement by Barrelet. Liu asserted that she purchased a single-family residence on a large lot with a vineyard from Barrelet. (Id. ¶ 1.) Liu asserted that, while Barrelet represented that the vineyard was in perfect condition, Barrelet did not allow Liu to conduct a

second 6 inspection. (Id.) After the close of escrow, Liu discovered that the vineyard contained 7 many grape vines that were dead or dying. (Id.) Similarly, despite representations that 8 there were no easements on the Property, Liu learned that an open space easement 9 encumbered large portions of the Property. (Id. ¶ 2.) The open space easement prevented 10 Liu and her husband from undertaking future improvement plans that they had for the 11 Property, thereby reducing the fair market value of the Property. (Id.) Liu asserted that 12 her claims include “breach of contract, fraud in the inducement and deceit by intentional 13 and/or negligent misrepresentation, and fraud and deceit by concealment of material facts.” 14 (Id. ¶ 3.) Liu stated that she “selected the Judicial Arbitration and Mediation Service 15 (‘JAMS’)[,] filed its complaint-in-arbitration with JAMS, and [] paid the JAMS filing fee” 16 but that “Barrelet refuses to arbitrate.” (Id. ¶ 9.) Barrelet did not respond to Liu’s Petition. 17 On April 10, 2024, Liu filed a Motion to Compel Arbitration (“Motion”). (Doc. 4.) 18 In her Motion, Liu re-asserted the allegations from her Petition. (Id. at 2–4.) Liu then 19 argued that an order for arbitration is proper here because (1) diversity jurisdiction exists 20 and (2) the disputes between the parties fall within the scope of the arbitration agreement. 21 (Id. at 4–5.) 22 C. Barrelet’s Opposition to Liu’s Motion to Compel Arbitration 23 In his Opposition to Liu’s Motion to Compel Arbitration, Barrelet responded that he 24 did not refuse to arbitrate. (Doc. 9 at 19.) Barrelet argued that Liu “unilaterally demanded 25 arbitration before a tribunal not provided for by the agreement, using JAMS rules not 26 provided for by the agreement, and in a forum not provided for by the agreement.” (Id. at 27 20.) Barrelet also argued that “the additional evidence provided has shown, respondent did 28 not simply refuse arbitration.” (Id.) Rather, “[h]is counsel submitted argument to JAMS 1” (Id.; see also id. at 27–29.) Barrelet also responded that there is no valid agreement 2 to arbitrate because, as the state court found, arbitration provisions in residential lease 3 agreements are void as against public policy under California law. (Id. at 20–21.) 4 D. This Court’s Order Compelling Arbitration 5 On November 22, 2024, this Court granted Liu’s Motion to Compel Arbitration 6 (“Arbitration Order”). (Doc. 13.) In its Arbitration Order, the Court first found that the 7 arbitration agreement at issue here is governed by the procedural rules of the FAA, 8 including the procedural rules set forth in in 9 U.S.C. § 4, but not the substantive rules of 9 the FAA. (Id. at 6–8.) Applying 9 U.S.C. § 4, the Court then found that Barrelet failed, 10 neglected, or refused to arbitrate Liu’s claims and that there was a valid, written agreement 11 to arbitrate Liu’s claims related to the Purchase Agreement. (Id. at 8–11.) The Court 12 disagreed with Barrelet’s assertion that the arbitration provision in the Purchase Agreement 13 was void in its entirety. (Id. at 10–11.) Instead, the Court found that the arbitration 14 provision in the Purchase Agreement was void as to Barrelet’s tenancy-related claims only. 15 (Id. at 10.) 16 E. Barrelet’s Motion for Reconsideration 17 On December 20, 2024, Barrelet filed his Motion for Reconsideration “on the 18 grounds that the Court misapprehended the facts and arguments made by [Barrelet] in 19 opposing the motion to compel and committed clear error as a result,” and that “the Court’s 20 Order compelling arbitration is unclear as to how and where the parties should proceed 21 with arbitration.” (Doc. 14

at 2.) Barrelet argues that the arbitration is void under 22 California law because the Purchase Agreement and the Lease are a single agreement and 23 because arbitration provisions in a residential lease are void as against public policy. (Doc. 24 14-1 at 7–11.) Barrelet then argues that he has not refused to arbitrate. (Id. at 11–17.) 25 Finally, Barrelet argues that “[i]t is unclear whether the Court is ordering the parties to 26 proceed with JAMS” (Id. at 17.) 27 /// 28 ///

1 II. LEGAL STANDARD

2 Civil Local Rule 7.1(i) outlines the proper procedures for motions for 3 reconsideration: 4 1. Whenever any motion or any application or petition for any order or other relief has been made to any judge and has been refused in whole or in part, ... 5 it will be the continuing duty of each party and attorney seeking such relief to 6 present to the judge to whom any subsequent application is made an affidavit of a party or witness or certified statement of an attorney setting forth the 7 material facts and circumstances surrounding each prior application, including 8 inter alia: ... what new or different facts and circumstances are claimed to exist which did not exist, or were not shown, upon such prior application. 9 10 2. Except as may be allowed under Rules 59 and 60 of the Federal Rules of Civil Procedure, any motion or application for reconsideration must be filed 11 within twenty-eight (28) days after the entry of the ruling, order or judgment 12 sought to be reconsidered. 13 S.D. Cal. Civ. L.R. 7.1(i). Under Rule 59(e), “[a] motion to alter or amend a judgment 14 must be filed no later than 28 days after the entry of the judgment.” However, “[a] motion 15 under Rule 60(b)(6) ‘must be made within a reasonable time.’” *Lal v. California*, 610 F.3d 16 518, 524 (9th Cir. 2010) (quoting Fed. R. Civ. P. 60(c)(1)); see also *Am. Ironworks & 17 Erectors, Inc. v. N. Am. Constr. Corp.*, 248 F.3d 892, 898–99 (9th Cir. 2001). Barrelet 18 timely filed his Motion for Reconsideration 28 days after the Court’s Order. (Docs. 13– 19 14.) Accordingly, the Court will apply Rule 59(e). See *Schroeder v. McDonald*, 55 F.3d 20 454, 459 (9th Cir. 1995) (“A ‘timely filed motion for reconsideration under a local rule is 21 a motion to alter or amend a judgment under Fed. R. Civ. P. 59(e).’”) (citations omitted). 22 “A Rule 59(e) motion may be granted if ‘(1) the district court is presented with newly 23 discovered evidence, (2) the district court committed clear error or made an initial decision 24 that was manifestly unjust, or (3) there is an intervening change in controlling law.’” 25 *Ybarra v. McDaniel*, 656 F.3d 984, 998 (9th Cir. 2011) (quoting *Zimmerman v. City of 26 Oakland*, 255 F.3d 734, 737 (9th Cir. 2001)). “A motion to ‘alter or amend’ a judgment 27 under Rule 59(e) seeks ‘a substantive change of mind by the court.’” *Tripathi v. Henman*, 28 1 845 F.2d 205, 206 n.1 (9th Cir. 1988) (quoting *Miller v. Transamerican Press, Inc.*, 709 2 F.2d 524, 526 (9th Cir. 1983)). “[R]econsideration of a judgment after its entry is an 3 extraordinary remedy which should be used sparingly.” *McDowell v. Calderon*, 197 F.3d 4 1253, 1254 n.1 (9th Cir. 1999) (quoting 11 *Charles Alan Wright et al., Federal Practice and 5 Procedure* § 2810.1 (2d ed.1995)). 6 “[A] Rule 59(e) motion for reconsideration may not be used to raise arguments or 7 present evidence for the first time when they could reasonably have been raised earlier in 8 the litigation.” *Cooney v. California*, No. 13-cv-01373-BAS (KSC), 2015 WL 3952184, 9 at *2 (S.D. Cal. June 29, 2015) (citing *Kona Enters.*,

Inc. v. Estate of Bishop, 229 F.3d 877, 10 890 (9th Cir.2000)). “A motion to reconsider is not another opportunity for the losing party 11 to make its strongest case, reassert arguments, or revamp previously un meritorious [sic] 12 arguments. Reconsideration motions do not give parties a ‘second bite at the apple.’ 13 Neither are they devices permitting the unsuccessful party to ‘rehash’ arguments previously 14 presented.” Ausmus v. Lexington Ins. Co., No. 08-CV-2342 L(LSP), 2009 WL 2058549, 15 at *2 (S.D. Cal. July 15, 2009); see also Weeks v. Bayer, 246 F.3d 1231, 1236 (9th Cir. 16 2001) (finding that giving a party a “second bite at the apple” is not the purpose of Rule 17 59) (quotation and citations omitted).

18 III. DISCUSSION

19 A. Compliance with Chambers Rules 20 In his Opposition to Barrelet’s Motion for Reconsideration, Liu asserts that Barrelet 21 failed to comply with this Court’s meet-and-confer requirements prior to filing his Motion 22 for Reconsideration. (Doc. 15 at 3.) Barrelet responds that he met and conferred with 23 counsel as soon as he remembered the requirement but could not wait seven days to file 24 the Motion for Reconsideration without missing the deadline. (Doc. 16 at 5.) 25 This Court’s Civil Chambers Rules Section III.A provides that “[a]ny party 26 contemplating the filing of any noticed motion before this Court must first contact opposing 27 counsel to discuss ... the substance of the contemplated motion and any potential 28 resolution. The conference must take place at least seven (7) days prior to the filing of the 1 motion.” However, the “Court may vary these procedures as appropriate in any case.” Id. 2 at 1. 3 Here, Barrelet concedes that he did not meet and confer with counsel seven days 4 prior to the filing of the Motion for Reconsideration. (Doc. 16 at 5.) However, at this 5 juncture, the Court is not inclined to dismiss his Motion for Reconsideration on this basis 6 alone, and the Court will proceed to the Parties’ remaining arguments. 7 B. Federal Rule of Civil Procedure 59(e) 8 As set forth above, “[a] Rule 59(e) motion may be granted if (1) the district court is 9 presented with newly discovered evidence, (2) the district court committed clear error or 10 made an initial decision that was manifestly unjust, or (3) there is an intervening change in 11 controlling law.” Ybarra, 656 F.3d at 998 (internal quotation marks omitted). Here, 12 Barrelet filed his Motion for Reconsideration “on the grounds that the Court 13 misapprehended the facts and arguments made by [Barrelet] in opposing the motion to 14 compel and committed clear error as a result.” (Doc. 14 at 2.) Despite the bald assertion 15 that the Court committed “clear error,” Barrelet’s Motion for Reconsideration largely re- 16 states the arguments asserted in his opposition to the underlying Motion to Compel 17 Arbitration—that the arbitration provision is void under California law and that Barrelet 18 has not refused to arbitrate. (See Doc. 14-1 at 7–17.) However, “[a] motion to reconsider 19 is not another opportunity for the losing party to make its strongest case, reassert 20 arguments, or revamp previously un meritorious [sic] arguments.” Ausmus, 2009 WL 21 2058549, at *2. Thus, Barrelet’s Motion for Reconsideration is procedurally improper and 22 may be denied on this basis alone. See e.g., Mendoza v. Garland, No. 3:21-CV-01968- 23 JES-MMP, 2023 WL 6050581, at *2 (S.D. Cal. Sept. 15, 2023) (denying motion for 24 reconsideration under Rule 59(e)

when the plaintiff “did not argue how the [o]rder was 25 clearly erroneous or present any newly discovered evidence.”). Nevertheless, the Court 26 will briefly readdress Barrelet’s arguments.

27 C. 9 U.S.C. § 4

28 “Section 4 of the FAA states that ‘a party aggrieved by the alleged failure, neglect, 1 or refusal of another to arbitration under a written agreement for arbitration may petition 2 any United States district court ... for an order directing that such arbitration proceed in the 3 manner provided for in such agreement.’” *Lytton v. S. Cal. Reg’l Rail Auth.*, 683 F. Supp. 4 3d 1101, 1105 (C.D. Cal. 2023) (quoting 9 U.S.C. § 4) (emphasis added). “A court 5 reviewing a motion to compel arbitration under this section of the FAA, must determine: 6 ‘(1) the existence of a valid, written agreement to arbitrate; and, if it exists, (2) that the 7 agreement to arbitrate encompasses the dispute at issue.’” *Id.* (quoting *Ashbey v. Archstone 8 Prop. Mgmt., Inc.*, 785 F.3d 1320, 1323 (9th Cir. 2015)). 9 1. Failure, Neglect, or Refusal to Arbitrate 10 In his Motion for Reconsideration, Barrelet re-argues that he has not refused to 11 arbitrate. (Doc. 14-1 at 11–17.) Specifically, Barrelet argues that he objected to arbitration 12 with JAMS, not to arbitration in general. (See e.g., *id.* at 12 (“Barrelet therefore objected 13 to the unilateral arbitration demand with JAMS, not to any proposed arbitrator.”).) As 14 before, the Court is not persuaded and finds that Barrelet has repeatedly failed, neglected, 15 or refused to arbitrate. 16 Liu demanded arbitration for claims related to the Purchase Agreement on or about

17 September 20, 2023. (Doc. 4-2 at 3, Declaration of Paul S. Marks [“Marks Decl.”], ¶ 2.)

18 Specifically, Liu filed a demand for Arbitration Form with JAMS and paid the \$2,000 filing 19 fee. (*Id.*; see also Doc. 4-2 at 24; Doc. 9-1 at 2–3, Decl. of J. Ray Ayers [“Ayers Decl.”] ¶ 20 8, Ex 7.) Counsel for Barrelet refused to accept service of the arbitration demand, 21 asserting that the arbitration agreement at issue does not provide for arbitration with JAMS, 22 that the arbitration agreement does not provide for arbitration in Orange County or Los 23 Angeles, and that the state trial court already considered Liu’s motion to compel arbitration 24 and denied the motion on the grounds that the arbitration provision is invalid under 25 California law. (Ayers Decl. ¶ 9, Ex. 8.) In response, counsel for Liu stated they would 26 “entertain any proposal for a different neutral[.]” (*Id.* ¶ 10, Ex. 9.) Counsel for Liu also 27 stated that “[t]he location of the arbitration is also not dictated by the arbitration agreement” 28 and that “[i]n this day and age, many if not most cases are handled remotely, and our side 1 would agree to that.” (*Id.*) Counsel for Barrelet did not propose a different neutral or agree 2 to arbitrate remotely.² (See *id.*) Liu therefore filed the underlying Motion to Compel 3 Arbitration, which Barrelet opposed, and the Court granted. (Docs. 4, 9, 13.) 4 Additionally, in response to Barrelet’s Motion for Reconsideration, Liu submitted a 5 second Declaration of Paul Marks (“Second Marks Decl.”). (Doc. 15-1.) Mr. Marks, Liu’s 6 counsel, declared that he sent Barrelet’s counsel, Mr. Ayers, a list of potential arbitrators, 7 many of whom are not affiliated with JAMS. (See *id.* ¶ 4, Ex. B.) In fact, it appears that 8 Mr. Marks offered to proceed with a different arbitrator even prior to the filing of this 9 Motion for Reconsideration. (See *id.* [“As indicated when we last spoke, I am not wedded 10 to JAMS.”].)

Once again, Mr. Ayers did not respond and instead continued to pursue this 11 Motion for Reconsideration. (Id. ¶ 5; see also Doc. 16.) In light of this evidence, the Court 12 is not persuaded that Barrelet only objected to arbitration with JAMS, not to arbitration in 13 general. The Court therefore finds that Barrelet's continued failure to select a mutually 14 agreeable arbitrator constitutes a failure or refusal to arbitrate. 15 2. Valid, Written Agreement to Arbitrate 16 In his Motion for Reconsideration, Barrelet argues that the arbitration provision is 17 void under California law. (Doc. 14-1 at 7–11.) Specifically, Barrelet argues that the 18 Purchase Agreement and Lease are a single contract. (Id. at 7–9.) Barrelet then argues 19 that, because the Purchase Agreement and the Lease are only one contract, the arbitration 20 provision is void in its entirety. (Id. at 9–11.) In other words, Barrelet argues that the 21 arbitration provision is void as to claims regarding both the Lease and the Purchase 22 Agreement. (Id.) As before, the Court is not persuaded. 23 First, Barrelet's reliance on the State Court Action is misplaced. While the state trial 24 and appellate courts held that California Civil Code § 1953(a)(4) precludes arbitration of 25 Barrelet's tenancy-related claims, they did not hold that § 1953(a)(4) precludes arbitration 26 27 2 JAMS later declined to proceed with the arbitration because the Purchase Agreement does 28 1 of Liu's claims related to the Purchase Agreement. (See e.g., Doc. 12-1 at 2, 9–12 (“The 2 trial court further concluded that section 1953, subdivision (a)(4) voided any agreement 3 between the parties to arbitrate tenancy related claims. ... We ... affirm.”) (emphasis 4 added).) As set forth above (see Section I.A), Barrelet's State Court Complaint alleged 5 breaches of the Lease. However, Liu's Petition and demand for arbitration alleged 6 breaches of the Purchase Agreement. (See Doc. 1; Doc. 4; Doc. 4-2 at 24.) 7 Additionally, even accepting as true Barrelet's position that the Lease and the 8 Purchase Agreement are one contract, Barrelet does not cite any authority supporting his 9 position that, as part of one contract, the arbitration provision is void in its entirety. The 10 Court also remains concerned that such a finding would invalidate the arbitration provision 11 found in the CAR's form California Residential Purchase Agreement and Joint Escrow 12 Instructions any time it is accompanied by the form Residential Lease After Sale. (See 13 Doc. 13 at 11.) The Court therefore finds there is a valid, written agreement to arbitrate 14 claims related to the Purchase Agreement. See *Acquire II, Ltd. v. Colton Real Est. Grp.*, 15 213 Cal. App. 4th 959, 967 (2013) (“California law reflects a strong public policy in favor 16 of arbitration as a relatively quick and inexpensive method for resolving disputes.”). 17 D. Clarity 18 In his Motion for Reconsideration, Barrelet asserts that “[i]t is unclear whether the 19 Court is ordering the parties to proceed with JAMS under its rules, which is the only relief 20 requested in the petition.” (Doc. 14-1 at 17.) Liu responds that the Court's Order is clear 21 and does not need clarification. (Doc. 15 at 4–5.) 22 Contrary to Barrelet's assertion, Liu did not move compel arbitration before JAMS 23 specifically. (See generally Doc. 4.) Liu moved to compel arbitration generally. (Id.) 24 Accordingly, the Court ordered the Parties to arbitrate all claims related to the Purchase 25 Agreement and did not order the Parties to proceed with JAMS specifically. (Doc. 13 at 26 11.) Further, as stated above, Liu has demonstrated a willingness to proceed with another 27

arbitrator. (Second Marks Decl., ¶ 4, Ex. B.) It is for the Parties to meet and confer and decide upon a mutually agreeable arbitrator. Barrelet's argument regarding the clarity of this Court's order compelling arbitration is unfounded.

IV. CONCLUSION

Based on the foregoing, Barrelet's Motion for Reconsideration is DENIED. The Court once again COMPELS the Parties to arbitrate all claims related to the Purchase Agreement. The Court DIRECTS the Clerk of the Court to close the case. See *Pac. Media Workers Guild v. San Francisco Chron.*, Case No. 17-cv-00172-WHO, 2017 WL 1861853, at *4 (N.D. Cal. May 9, 2017) (granting a petition to compel arbitration and closing the case). IT IS SO ORDERED.

DATE: July 28, 2025
We try

HON. RUTH BERMUDEZ' MONTENEGRO

UNITED STATES DISTRICT JUDGE

13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 12