

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

**Sheila Tovar, on behalf of herself and others similarly situated v.
LGCY Power, LLC, et al.**

Tovar · No. 25-cv-02627-AJB-MSB · Decided December 5, 2025

OPINION

Tovar

PER CURIAM.

1 2 3 4 5 6 7 8 9

10 UNITED STATES DISTRICT COURT

11 SOUTHERN DISTRICT OF CALIFORNIA

12 13 SHEILA TOVAR, on behalf of herself Case No.: 25-cv-02627-AJB-MSB and others
similarly situated, 14

ORDER GRANTING DEFENDANT’S

Plaintiff,

15 MOTION TO COMPEL

v. INDIVIDUAL ARBITRATION

16 LGCY POWER, LLC, et al., 17 (Doc. No. 3) Defendants. 18 19 20 Before the Court is
Defendant LGCY Power, LLC’s (“Defendant”) motion to 21 compel individual arbitration and
stay all proceedings.¹ (Doc. No. 3.) For the reasons set 22 forth below, the Court GRANTS
Defendant’s motion to compel arbitration, DISMISSES 23 without prejudice Plaintiff’s class
claims, and STAYS the action pending completion of 24 arbitration. 25 26 27 1 Pursuant to the
Local Civil Rules of Practice for the United States District Court for the Southern District of
California (“Local Rules”), the Court deems this motion suitable for determination on the 28

1 I. BACKGROUND

2 A. Factual Background 3 On October 20, 2024, Plaintiff signed an arbitration agreement with
Defendant. 4 (Doc. No. 3-2.) The arbitration agreement includes the following provisions: 5 1.
Scope Any and all Covered Claims (as defined below) between the Individual and the Company
shall be submitted to and resolved exclusively 6 by final and binding individual arbitration in
accordance with this Agreement 7 to the maximum extent permitted by law. 8 2. Covered Claims
The term Covered Claims includes any and all claims, 9 causes of action, or other disputes of any
kind, whether or not arising out of any employment relationship that may exist between the
Individual and the 10 Company, that the Company may have against the Individual, or that the 11
Individual may have against the Company or against its directors, officers, shareholders,
employees or agents. However, the term Covered Claims does 12 not include those claims set

forth below in Paragraph 3 of this Agreement. 13 Covered Claims include, but are not limited to, any claim, cause of action, or dispute of any nature relating to the Individual's employment with Company, 14 . . . failure to pay wages, bonuses or any other form of compensation, failure 15 to provide rest or meal periods, failure to pay on time, wage statement or pay stub violations, failure to provide or compensate for vacation time, paid time 16 off, or sick leave, [and] tortious acts[.] Covered Claims shall include any and 17 all procedural, substantive and gateway issues, including, without limitation, any dispute between the Parties relating to the scope of the arbitrator's powers, 18 the interpretation or enforceability of this Agreement or any part thereof, or 19 the arbitrability of any dispute. 20 (Id. ¶¶ 1–2.) 21 Claims excluded from the Arbitration Agreement include: 22 a) any dispute regarding the meaning, interpretation or enforceability of Paragraph 5, below; 23 b) any claim for state workers' compensation, state or federal 24 disability insurance benefits, or state unemployment insurance 25 benefits or other health or welfare benefits under government- administered programs, except that any claim alleging retaliation 26 by the Company related to the Individual's pursuit of such 27 benefits shall be subject to individual arbitration under this Agreement; 28 1 c) any claim for benefits under an employee benefit plan governed by the Employee Retirement Income Security Act of 2 1974 (ERISA), but only until the administrative procedures 3 stated in the employee benefit plan have been exhausted, at which point any further appeal shall be a Covered Claim under 4 this Agreement; 5 d) any administrative claim or charge with the Equal 6 Employment Opportunity Commission (EEOC) and/or any similar state or local agency to investigate alleged violations of 7 laws enforced by the EEOC or those agencies. 8 e) any administrative charges for unfair labor practices or 9 other complaints or proceedings brought before the National Labor Relations Board; 10 f) any disputes as to whether a claim or dispute falls within 11 the definition of excluded claims as set forth in this Paragraph 3, which must be decided only by a court of competent jurisdiction 12 located in Utah County, Utah; and 13 g) any other claim that is not subject to arbitration by 14 operation of law. 15 (Id. ¶ 3.) 16 Additionally, "[a]ll Covered Claims under this Agreement shall be submitted and 17 arbitrated on an individual basis only," and that "[t]he Parties expressly waive any right to 18 submit, initiate, assert, or participate in any class . . . action involving any other person[.]" 19 (Id. ¶ 5.) The parties agreed the Arbitration Agreement is to be governed primarily by the 20 Federal Arbitration Act and secondarily by the laws of the State of Utah, if the FAA is 21 deemed or construed to not apply for any reason. (Id. ¶ 4.) 22 B. Procedural Background 23 On August 21, 2025, Plaintiff, an allegedly non-exempt employee of Defendant, 24 filed a putative wage and hour class action complaint in the Superior Court of the State of 25 California for the County of San Diego, Case No. 25CU044343C, on behalf of herself and 26 other similarly situated hourly non-exempt employees of Defendant who worked in 27 California as "independent contractors" from the four years prior to the filing of complaint. 28 (See Doc. No. 1-2 at 4–30, Complaint. ("Compl.")) Plaintiff alleges seven causes of action: 1 (1) Declaratory Relief; (2) Willful Misclassification; (3) Failure to Pay Overtime Wages; 2 (4) Failure to Authorize or Permit Meal Periods; (5) Failure to

Authorize or Permit 3 Required Rest Periods; (6) Failure to Provide Complete and Accurate Wage Statements; 4 and (7) Unfair Business Practices. (Id.) 5 On October 3, 2025, Defendant removed this action from the San Diego Superior 6 Court pursuant to the Class Action Fairness Act of 2005. (Doc. No. 1.) A week later, 7 Defendant filed the instant motion to compel individual arbitration and stay all 8 proceedings. (Doc. No. 3.) On October 15, 2025, the Court issued a briefing schedule, 9 setting October 29, 2025, as Plaintiff's deadline to respond to the motion. (Doc. No. 4.) 10 On November 3, 2025, Plaintiff brought a motion to remand (Doc. No. 7), which the 11 Court denied on December 4, 2025 (Doc. No. 17). Since the filing of Defendant's motion, 12 Plaintiff has not filed an opposition or otherwise addressed the instant motion to compel 13 arbitration.

14 II. LEGAL STANDARD

15 The Federal Arbitration Act ("FAA") applies to contracts "evidencing a transaction 16 involving commerce." 9 U.S.C. § 2; *Brennan v. Opus Bank*, 796 F.3d 1125, 1129 (9th Cir. 17 2015). The Supreme Court has enunciated a "liberal federal policy favoring arbitration." 18 *AT&T Mobility LLC v.*, 344 (2011) ("The overarching purpose of the FAA . . . is to ensure 19 the enforcement of arbitration agreements according to their terms so as to facilitate 20 streamlined proceedings."). The FAA "leaves no place for the exercise of discretion by the 21 district court, but instead mandates that district courts shall direct the parties to proceed to 22 arbitration on issues as to which an arbitration agreement has been signed." *Dean Witter 23 Reynolds, Inc. v. Byrd*, 470 U.S. 213, 218 (1985). 24 Accordingly, under the FAA, the Court must, as a general matter, determine "two 25 'gateway' issues: (1) whether there is an agreement to arbitrate between the parties; and 26 (2) whether the agreement covers the dispute." *Brennan*, 796 F.3d at 1130. If the two 27 factors are met, the Court must enforce the arbitration agreement in accordance with its 28 precise terms. *Kilgore v. KeyBank, Nat. Ass'n*, 673 F.3d 947, 955 (9th Cir. 2012), on reh'g 1 en banc, 718 F.3d 1052 (9th Cir. 2013). These gateway issues, however, "can be expressly 2 delegated to the arbitrator where 'the parties clearly and unmistakably provide 3 otherwise.'" *Brennan*, 796 F.3d at 1130 (emphasis added) (quoting *AT&T Techs., Inc. v. 4 Commc'ns Workers of Am.*, 475 U.S. 643, 649 (1986)). 5 The party seeking to compel arbitration "has the burden of proving the existence of 6 an agreement to arbitrate by a preponderance of the evidence." *Knutson v. Sirius XM Radio 7 Inc.*, 771 F.3d 559, 565 (9th Cir. 2014). "In determining whether a valid arbitration 8 agreement exists, federal courts apply ordinary state-law principles that govern the 9 formation of contracts." *Heckman v. Live Nation Ent., Inc.*, 120 F.4th 670, 680 (9th Cir. 10 2024), cert. denied sub nom. *Live Nation v. Heckman*, No. 24-1145, 2025 WL 2823733 11 (U.S. Oct. 6, 2025). "Thus, generally applicable contract defenses, such as fraud, duress, 12 or unconscionability, may be applied to invalidate arbitration agreements without 13 contravening" federal law. *Doctor's Assocs., Inc. v. Casarotto*, 517 U.S. 681, 687 (1996).

14 III. REQUEST FOR JUDICIAL NOTICE

15 Defendant requests the Court take judicial notice of the JAMS Employment 16 Arbitration

Rules & Procedures, effective June 1, 2021. (See Doc. No. 3-3.) Plaintiff did not object. At the request of a party, the court must take judicial notice of a fact that is “not subject to reasonable dispute, so long as the court is supplied with the necessary information. Fed. R. Evid. 201(b), (c)(2). A fact is “not subject to reasonable dispute where it “(1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). “A court may take judicial notice of the existence of matters of public record, such as a prior order or decision, but not the truth of the facts cited therein.” *Marsh v. S.D. Cnty.*, 432 F. Supp. 2d 1035, 1043 (S.D. Cal. 2006). These rules and procedures are not subject to reasonable dispute and other courts commonly grant judicial notices of JAMS rules. See, e.g., *Cooper v. Adobe Sys. Inc.*, No. 18-CV-06742-BLF, 2019 WL 5102609, at *4 (N.D. Cal. Oct. 11, 2019) (“JAMS rules are a matter of public record and therefore subject to judicial notice.”); *Estrada v. KAG W., 2 LLC*, No. 1:24-CV-00257-KES-CDB, 2025 WL 2829425, at *1 n.1 (E.D. Cal. Oct. 6, 2025) 3 (“Similarly, the JAMS rules are a matter of public record not subject to reasonable dispute 4 and are properly subject to judicial notice.”); *Nguyen v. Marketsource, Inc.*, No. 17-CV- 5 02063-AJB-JLB, 2018 WL 2182633, at *2 (S.D. Cal. May 11, 2018) (granting the 6 defendant’s request to take judicial notice of the JAMS Employment Arbitration Rules & 7 Procedures and JAMS Policy on Employment Arbitration Minimum Standards of 8 Procedural Fairness). Accordingly, the Court GRANTS Defendant’s request and takes 9 judicial notice of the JAMS Employment Arbitration Rules & Procedures, effective June 10 1, 2021.

11 IV. MOTION TO COMPEL ARBITRATION

12 Plaintiff failed to file an opposition. (See generally Docket.) Accordingly, pursuant 13 to the Local Civil Rules of Practice for the United States District Court for the Southern 14 District of California, the Court construes Plaintiff’s lack of response as consent to the 15 granting of Defendant’s motion. See CivLR 7.1.f.3.c. 16 A. Validity of the Arbitration Agreement 17 First, the Court must consider whether a valid arbitration agreement exists. See 18 *Brennan*, 796 F.3d at 1130. Defendant provides as an exhibit to its motion the Arbitration 19 Agreement electronically signed by Plaintiff with the “I Accept” box checked. (See Doc.

20 No. 3-2 at 14.) The Arbitration Agreement is additionally electronically signed by Doug 21 Robinson, Defendant’s Chief Executive Officer. (Id.) Defendant asserts that Plaintiff 22 “voluntarily” entered into the Agreement. (Doc. No. 3 at 15.) Plaintiff does not contest that 23 she signed the Agreement, nor does she raise any defense to the contract’s formation or 24 enforcement. (See generally Docket.) There are no indications on the record before the 25 Court that the Arbitration Agreement is invalid or unenforceable. Accordingly, the Court 26 finds the Arbitration Agreement to be valid and enforceable. 27 /// 28 /// 1 B. Scope of Arbitration Agreement 2 Second, the Court must determine whether Plaintiff’s claims fall within the scope of 3 the Agreement. See *Brennan*, 796 F.3d at 1130. Defendant asserts that the “broad” 4 language of the Agreement “covers all of the claims Plaintiff alleges in the Complaint in 5 this action, which

asserts LGCY Power allegedly misclassified her, failed to pay her 6 overtime, failed to provide her meal and rest breaks, failed to provide her accurate or 7 compliant wage statements, and allegedly engaged in unfair business practices.” (Doc.

8 No. 3 at 15–17.) In the complaint, Plaintiff alleges seven causes of action, all “relating to
9 the Individual’s employment with Company,” including “failure to pay wages, . . . failure 10 to
provide rest or meal periods, . . . wage statement or pay stub violations,” and a 11 “violation[] of .
. . . public policy.” (Compare Compl. with Doc. No. 3-2 ¶ 2.) None of 12 Plaintiff’s individual
claims implicate those listed as Excluded Claims. (Compare Compl. 13 with Doc. No. 3-2 ¶ 3.)
Accordingly, the Court finds Plaintiff’s individual claims fall within 14 the scope of the
Arbitration Agreement and GRANTS Defendant’s motion to compel 15 Plaintiff’s individual
claims to arbitration. 16 C. Dismissal of Class Claims 17 Defendant argues the Court should either
dismiss Plaintiff’s putative class action 18 claims due to the class action waiver contained in the
Agreement or transfer the remainder 19 of the action to the District of Utah pursuant to 28 U.S.C.
§ 1404(a). (Doc. No. 3 at 18.) 20 The parties agreed that “[a]ll Covered Claims under this
Agreement shall be submitted and 21 arbitrated on an individual basis only,” and that “[t]he
Parties expressly waive any right to 22 submit, initiate, assert, or participate in any class . . . action
involving any other person[.]” 23 (Id. ¶ 5.) Plaintiff does not contest the validity of this waiver. Cf.
Epic Sys. Corp. v. Lewis, 24 584 U.S. 497, 502 (2018) (“In the Federal Arbitration Act, Congress
has instructed federal 25 courts to enforce arbitration agreements according to their terms—
including terms 26 providing for individualized proceedings.”). Moreover, Plaintiff does not
contest that, 27 because her individual claims are subject to arbitration, she herself would not be
able to 28 sustain her class claims as an adequate representative. Accordingly, finding them to be 1
||}barred by waiver, the Court DISMISSES without prejudice Plaintiff’s class action 2 || claims. 3
D. Stay of the Action Pending Individual Arbitration 4 Having dismissed Plaintiff’s class claims
and compelled to arbitration all individual 5 || claims, the Court finds that a stay of the action
pending completion of individual arbitration 6 || to be proper. See Blair v. Rent-A-Ctr., Inc., 928
F.3d 819, 832 (9th Cir. 2019) (‘Under 9 7 ||U.S.C. § 3, a district court must stay proceedings for
claims and issues ‘referable to 8 || arbitration’ pending resolution of the arbitration.”).

CONCLUSION

10 For the foregoing reasons, the Court GRANTS Defendant’s motion and further 11 ||} ORDERS:
12 1. Plaintiff’s individual claims are COMPELLED to arbitration in compliance 13 || with the
parties’ Arbitration Agreement. 14 2. Plaintiff’s class claims are DISMISSED without prejudice.
15 3. The instant action is STAYED pending completion of arbitration of □□□□□□□□ □ 16
individual claims. 17 4. The parties are DIRECTED to file a joint status report, informing the
Court 18 || of the status of arbitration no later than April 6, 2026, and every 60 days thereafter. 19
IT IS SO ORDERED. 20 || Dated: December 5, 2025 © 21 Hon, Anthony J.Battaglia 22 United
States District Judge 23 24 25 26 27 28 °

