

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Chavoya v. Merrill Gardens L.L.C.

No. 1:24-cv-00268-KES-BAM (E.D. Cal. July 31, 2025) · No. 1:24-cv-00268-KES-BAM · Decided August 1,
2025

OPINION

Chavoya v. Merrill Gardens, LLC

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 JACOB CHAVOYA, individually, and on No. 1:24-cv-00268-KES-BAM behalf of all
others similarly situated 12 Plaintiff,

13 ORDER GRANTING DEFENDANT

v. MERRILL GARDENS L.L.C.’S MOTION TO

14 COMPEL ARBITRATION

MERRILL GARDENS L.L.C. DBA

15 TRUEWOOD BY MERRILL, a Doc. 34

Washington limited liability company; and 16 DOES 1 through 10, inclusive, 17 Defendants. 18

19 This action concerns plaintiff Jacob Chavoya’s state law claims against his former 20
employer, defendant Merrill Gardens L.L.C., arising from Chavoya’s position as a cook at Merrill

21 Gardens’ Truewood by Merrill facility located in Clovis, California. Doc. 34-3 (“Lingle Decl.”)

22 ¶ 6. Merrill Gardens moves to compel arbitration of Chavoya’s claims on the basis that he
agreed 23 to arbitrate them in an agreement he signed when he began his employment with Merrill
Gardens.

24 Doc. 34. Chavoya opposes the motion, arguing that he has no recollection of signing the

25 agreement, his claims cannot be compelled to arbitration under California law, and the
agreement 26 is unconscionable. Doc 37. For the reasons explained below, Merrill Gardens’

motion to compel 27 arbitration is granted. 28 ///

1 I. BACKGROUND

2 Merrill Gardens operates senior living facilities in several states, including California. 3 Lingle

Decl. ¶ 4. Chavoya was an hourly-paid, non-exempt employee of Merrill Gardens from 4
approximately February 2022 until June 2023. Doc. 1, Ex. A (“Compl.”) ¶ 7. 5 A. Merrill

Gardens’ Onboarding Process and the Arbitration Agreement 6 According to Merrill Gardens’
Senior Vice President and Chief Administrative Officer 7 Morei Lingle, who is familiar with the
company’s organizational structure and its business 8 operations, Merrill Gardens’ California-

based employees sign arbitration and onboarding 9 agreements electronically on a platform called UKG. Lingle Decl. ¶¶ 1–2, 9. Employees are sent 10 a link to complete the documents using the email address provided on their employment 11 application and can review and sign documents remotely. Id. ¶ 9. UKG utilizes various factors to 12 verify the signer’s identity, including user authentication with user IDs and passwords; unique 13 signatures that include the name of the signatory, the date, and a print marker; signature blocks 14 that are a permanent part of the PDF document and include a non-reversible hash of the contents 15 of the document as it was when the signing was completed; an audit trail that tracks signer 16 actions; and secure encryption ensuring that signed documents cannot be altered. Id. ¶ 10, Ex. B. 17 New employees are provided with unique IDs for the UKG platform and must sign in 18 through the link sent to their email. Id. ¶ 10. Employees are also required to create a permanent 19 password to ensure that no one else can access their UKG account. Id. Once new employees log 20 into UKG, forms and documents are displayed individually for them to read and sign. Id. Ex. B 21 at 11. When a document requires a signature, employees cannot move forward in the system 22 without selecting the box marked “Click to Sign.” Id. An audit trail of these signatures is kept in 23 a database which includes the user ID for the individual who signed the document, the date and 24 time of the signing, the IP address of the logged-in user, and the name of the signed document. 25 Id. 26 /// 27 /// 28 /// 1 One of those documents is an arbitration agreement entitled “MUTUAL AGREEMENT 2 TO ARBITRATE” (“MAA”). Id. Ex. A. A section entitled “Acknowledgment” states: 3 By signing below, I am certifying that I have read, understand, and agree to be bound by the foregoing Agreement. I further certify that 4 I was given reasonable time to review, ask questions about, and consider this Agreement, and am signing it of my own accord and 5 free will.

6 Id. at 8. The MAA contains a section entitled “Employee’s Right to Opt-Out” which states that 7 “the Employee may opt out of this Agreement by sending” a “written opt-out notice within 10 8 days of Employee’s signature on this Agreement.” Id. at 7 (emphasis omitted). Further, this 9 section states that “[a]n Employee who submits a timely opt-out . . . will not be subject to any 10 adverse employment actions as a consequence of that decision.” Id. In a section entitled “Scope 11 of Arbitration,” the MAA states that 12 Employee and Employer agree that all claims between them of any kind or type [. . .] arising out of or relating to the Employee’s 13 employment by Employer (including, but not limited to, [. . .] any federal, state or local law or claims relating to [. . .] wage and hour, 14 wage payment, or meal and rest periods) (“claims”) shall be resolved exclusively through final and binding arbitration as provided in this 15 Agreement, and shall be brought solely in the Party’s individual capacity to resolve the Party’s individual claims. 16 17 Id. at 5 (emphasis omitted). The MAA goes on to state that “[t]he scope of arbitration shall be to

18 the full extent permitted under Section 2 of the Federal Arbitration Act (‘FAA’). Id. 19 According to the signature audit report, on February 21, 2022, Chavoya logged into UKG 20 using the email address he provided on his employment application. Id. ¶ 12. The report shows 21

that he opened the MAA at 3:21 p.m. PST and affixed his digital signature. Id. Ex. C. The date 22 that was automatically affixed to the agreement matches the date on which the audit shows that 23 Chavoya electronically signed the agreement. Id. Exs. A, C; Doc. 38-1 (“Supp. Lingle Decl.”) 24 ¶ 9. On the same day at around the same time he electronically signed the MAA, Chavoya also 25 completed tax documentation through the UKG platform using the same IP address. Supp. Lingle 26 Decl., ¶ 9, Ex. D. 27 /// 28 /// 1 B. Procedural Background 2 On January 30, 2024, Chavoya, individually and on behalf of similarly situated 3 individuals, initiated this action by filing a putative class action complaint against Merrill 4 Gardens in the Fresno County Superior Court. Compl. Merrill Gardens filed a notice of removal 5 in this Court on March 4, 2024. Doc. 1. Chavoya filed a motion to remand on April 15, 2024, 6 Doc. 15, which was denied on June 28, 2024. Doc. 22.

7 The complaint alleges several causes of action arising under the California Labor Code 8 against Merrill Gardens, including for failure to pay minimum and straight time wages, failure to 9 pay overtime wages, meal and rest period violations, failure to timely pay wages due at 10 termination, failure to provide accurate itemized wage statements, failure to indemnify employees 11 for necessary expenses, and failure to produce employment records. See generally Compl. It also 12 asserts a cause of action under California Business and Professions Code § 17200 et seq., 13 resulting from the alleged unfair business practices set forth above.¹ Id. 14 Merrill Gardens filed a motion to compel arbitration on December 11, 2024. Doc. 34. 15 Plaintiff Jacob Chavoya filed an opposition to the motion, Doc. 37, and Merrill Gardens filed a 16 reply. Doc. 38. The Court took the motion under submission on the papers pursuant to Local 17 Rule 230(g). Doc. 39.

18 II. LEGAL STANDARD

19 The Federal Arbitration Act (“FAA”) governs arbitration agreements. 9 U.S.C. § 2. 20 “Section 2 of the statute makes arbitration agreements ‘valid, irrevocable, and enforceable, save 21 upon such grounds as exist at law or in equity for the revocation of any contract.’” Viking River 22 Cruises, Inc. v. Moriana, 596 U.S. 639, 649–50 (2022) (quoting 9 U.S.C. § 2). “As [the Supreme 23 Court has] interpreted it, this provision contains two clauses: An enforcement mandate, which 24 renders agreements to arbitrate enforceable as a matter of federal law, and a saving clause, which 25 permits invalidation of arbitration clauses on grounds applicable to ‘any contract.’” Id. at 650 26 (citing AT&T Mobility LLC v. Concepcion, 563 U.S. 333, 339–40 (2011)). 27 1 The allegations in the complaint are more fully set forth in this Court’s Order denying 28 Chavoya’s motion to remand. Doc. 22 at 1–3. 1 A party seeking to enforce an arbitration agreement may petition the court for “an order 2 directing the parties to proceed to arbitration in accordance with [its] terms.” 9 U.S.C. § 4. When 3 ruling on a motion to compel arbitration, a court determines “(1) whether a valid agreement to 4 arbitrate exists and, if it does, (2) whether the agreement encompasses the dispute at issue.” 5 Chiron Corp. v. Ortho Diagnostic Sys., 207 F.3d 1126, 1130 (9th Cir. 2000). The party seeking 6 to compel arbitration bears the burden of proving an

agreement's existence by a preponderance of the evidence. *Knutson v. Sirius XM Radio Inc.*, 771 F.3d 559, 565 (9th Cir. 2014). 8 "In determining whether the parties have agreed to arbitrate a particular dispute, federal courts apply state-law principles of contract formation." *Berman v. Freedom Fin. Network, LLC*, 1030 F.4th 849, 855 (9th Cir. 2022) (citing *First Options of Chi., Inc. v. Kaplan*, 514 U.S. 938, 944 (1995)). Parties may rely upon general contract defenses to invalidate an agreement to arbitrate. 12 *Concepcion*, 563 U.S. at 339. "To require arbitration, [a plaintiff's] factual allegations need only 13 'touch matters' covered by the contract containing the arbitration clause and all doubts are to be 14 resolved in favor of arbitrability." *Simula, Inc. v. Autoliv, Inc.*, 175 F.3d 716, 719 (9th Cir. 1999) 15 (citing *Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.*, 473 U.S. 614, 624 (1985)). If a valid arbitration agreement encompassing the dispute exists, arbitration is 17 mandatory. *Dean Witter Reynolds Inc. v. Byrd*, 470 U.S. 213, 218 (1985). Under section 3 of the 18 FAA, a court, "upon being satisfied that the issue involved . . . is referable to arbitration under 19 such an agreement, shall on application of one of the parties stay the trial of the action until such 20 arbitration has been had in accordance with the terms of the agreement." 9 U.S.C. § 3.

21 III. ANALYSIS

22 Merrill Gardens maintains that Chavoya entered into a valid and enforceable agreement to 23 arbitrate all employment disputes, and that he agreed to arbitrate all claims on an individual basis 24 and not as part of any class, collective, or representative action. Doc. 34 at 2. Chavoya asserts 25 that the MAA is unenforceable because (1) California law precludes compelled arbitration of 26 claims arising from Labor Code violations, (2) Merrill Gardens has failed to demonstrate that 27 Chavoya signed the agreement, and (3) the agreement is unconscionable. Doc. 37 at 5. These 28 arguments are each addressed below. 1 A. Applicable Law 2 Chavoya argues that the FAA does not apply, and therefore California Labor Code 3 sections 229 and 432.6(a), which he contends prohibit mandatory arbitration of the wage claims 4 in this case, control. Doc. 37 at 13. Chavoya asserts that there is no nexus between interstate 5 commerce and his employment, and that parties cannot privately contract to create preemptive 6 jurisdiction under the FAA. *Id.* at 14–16. 7 The Supreme Court has held that section 2 of the FAA is "in unmistakable conflict with 8 California's § 229 requirement that litigants be provided a judicial forum for resolving wage 9 disputes," and "under the Supremacy Clause, the state statute must give way." *Perry v. Thomas*, 10 482 U.S. 483, 491 (1987). The Ninth Circuit has similarly held that California Labor Code 11 section 432.6 is preempted by the FAA. *Chamber of Commerce v. Bonta*, 62 F.4th 473, 478 (9th 12 Cir. 2023). "Section 2, therefore, embodies a clear federal policy of requiring arbitration unless 13 the agreement to arbitrate is not part of a contract evidencing interstate commerce or is revocable 14 'upon such grounds as exist at law or in equity for the revocation of any contract.'" *Perry*, 482 15 U.S. at 489 (quoting 9 U.S.C. § 2). The FAA defines the term "commerce" as "commerce among 16 the several States or with foreign nations." 9 U.S.C. § 1. 17 In the statutory phrase "evidencing a transaction involving commerce," 9 U.S.C. § 2, the 18 word "involving"

reflects Congress' intent to exercise its commerce power to the fullest extent. 19 *Allied-Bruce Terminix Cos., Inc. v. Dobson*, 513 U.S. 265, 277 (1995). Thus, "it is perfectly clear 20 that the FAA encompasses a wider range of transactions than those actually 'in commerce'—that 21 is, 'within the flow of interstate commerce.'" *Citizens Bank v. Alafabco, Inc.*, 539 U.S. 52, 56 22 (2003) (quoting *Allied-Bruce*, 513 U.S. at 273). Notwithstanding the FAA's expansive scope, its 23 basic coverage authorization "insist[s] that the 'transaction' in fact 'involv[e]' interstate 24 commerce, even if the parties did not contemplate an interstate commerce connection." *Allied- Bruce*, 513 U.S. at 281 (second alteration in original). The Supreme Court has identified "three 26 categories of activity that Congress may regulate under its commerce power: (1) the use of the 27 channels of interstate commerce; (2) the instrumentalities of interstate commerce, or persons or 28 things in interstate commerce," and "(3) those activities having a substantial relation to interstate 1 commerce," that is, those activities that "substantially affect interstate commerce in the aggregate, 2 even if their individual impact on interstate commerce is minimal." *Taylor v. United States*, 579 3 U.S. 301, 306 (2016) (internal quotation marks and citations omitted). "Congress' Commerce 4 Clause power 'may be exercised in individual cases without showing any specific effect upon 5 interstate commerce' if in the aggregate the economic activity in question would represent 'a 6 general practice ... subject to federal control.'" *Citizens Bank*, 539 U.S. at 56–57 7 (quoting *Mandeville Island Farms, Inc. v. American Crystal Sugar Co.*, 334 U.S. 219, 236 8 (1948)). 9 "Employment contracts, except for those covering workers engaged in transportation, are 10 covered by the FAA." *E.E.O.C. v. Waffle House, Inc.*, 534 U.S. 279, 289 (2002) (citing *Circuit 11 City Stores v. Adams*, 532 U.S. 105 (2001)). In *Waffle House*, the plaintiff signed an arbitration 12 agreement prior to working as grill operator for Waffle House. *Id.* at 282–83. Here, Chavoya 13 was similarly working in the preparation of food as a cook, and the MAA is likewise part of an 14 employment contract as it was signed in the course of Chavoya's onboarding process when he 15 was hired by Merrill Gardens. 16 In *Hoover v. American Income Life Insurance Company*, 206 Cal. App. 4th 1193 (2012), a 17 case on which Chavoya relies, the court found that the subject agreement did not involve 18 interstate commerce because the employer only offered evidence that the employee was a 19 California resident and that the employer was based in Texas. 206 Cal. App. 4th at 1207–08. 20 However, the California Court of Appeal has subsequently noted that "[t]he court's reasoning in 21 Hoover was questionable," in part, because the court did not consider whether the employee's 22 activity in the aggregate represented a general practice subject to federal control. *Evenskaas v. 23 Cal. Transit, Inc.*, 81 Cal. App. 5th 285, 297 n.5 (2022). Additionally, the present case is 24 distinguishable from *Hoover*. See *Vasquez v. RSI Home Products*, No. 8:20-CV-01494-JWH- 25 JDEX, 2020 WL 6778772, at *15 (C.D. Cal. Nov. 12, 2020) ("Hoover [is a] California case[], 26 which [is] not binding upon this Court, especially considering that interpretation of the FAA is a 27 matter of federal law, not California state law . . . [and] [i]n Hoover, the [court] determined that 28 the FAA did not apply because the defendant failed to adduce any evidence to establish that a 1 relationship existed between the defendant and

the plaintiff or that the relationship involved 2 interstate commerce.”). 3 Here, Merrill Gardens has demonstrated that Chavoya worked at a facility in California 4 and that Merrill Gardens is headquartered in Seattle, Washington and does business throughout 5 the United States and abroad. Doc. 34-1 at 9. The MAA also states that Merrill Gardens “is 6 engaged in transactions involving interstate commerce and Employee’s employment involves 7 such commerce.” Lingle Decl., Ex. A § 10. The nature of Chavoya’s employment appears to 8 have sufficiently implicated interstate commerce as defined by the FAA. See *Allied-Bruce*, 513 9 U.S. at 282 (interstate nature of contract undisputed because of multistate nature of companies 10 and use of materials outside of state); *Steele v. Am. Mortg. Mgmt. Servs.*, No. 2:12-CV-00085 11 WBS JBM, 2012 WL 5349511, at *4, n.2 (E.D. Cal. Oct. 26, 2012) (interstate commerce 12 implicated where employer conducted business in several states while headquartered in a 13 different state than where employee was employed); *Langston v. 20/20 Companies, Inc.*, No. 14 EDCV 14-1360 JGB SPX, 2014 WL 5335734, at *4 (C.D. Cal. Oct. 17, 2014) (interstate 15 commerce implicated where “Defendant is headquartered in Texas and ‘engages door-to-door 16 sales representatives in multiple states, including but not limited to California’”); *Rogers v. Lyft, 17 Inc.*, 452 F. Supp. 3d 904, 916 (N.D. Cal. 2020) (recognizing that employees’ “work 18 predominantly entails intrastate trips, an activity that undoubtedly affects interstate commerce”), 19 *aff’d*, No. 20-15689, 2022 WL 474166 (9th Cir. Feb. 16, 2022). 20 In *Simeon v. Domino’s Pizza LLC*, the court found that interstate commerce was 21 implicated because the arbitration agreement was “entered into between a New York resident 22 (Simeon) and a Michigan corporation (Domino’s) doing business in ‘multiple states,’” the 23 agreement “relate[d] to a ‘general practice’ involving or affecting commerce,” and the agreement 24 “relate[d] to a business that uses materials and ingredients involved in interstate commerce.” No. 25 17CV5550RJDST, 2019 WL 7882143, at *3 (E.D.N.Y. Feb. 6, 2019) (“It is highly likely that 26 everything from the cardboard used to make the pizza boxes, to the cheese and tomatoes used to 27 prepare the pizza, to the car parts in Simeon’s delivery vehicle traveled in interstate commerce.”). 28 Similarly, here, it is highly probable that in preparing food as a cook for Merrill Gardens, 1 Chavoya’s employment involved materials and products that traveled in interstate commerce, 2 making his employment contract one which substantially affects interstate commerce in the 3 aggregate. The reasoning in *Simeon* is persuasive here and supports the rule set forth in *Waffle 4 House*, which is binding on this Court. See *Waffle House*, 534 U.S. at 289 (“Employment 5 contracts, except for those covering workers engaged in transportation, are covered by the 6 FAA.”). 7 Accordingly, interstate commerce was sufficiently implicated by the parties’ employment 8 relationship such that the FAA would control in this case. Therefore, the Court need not consider 9 whether the MAA itself created preemptive jurisdiction under the FAA by explicitly invoking it.² 10 B. Authenticity of Signature 11 The parties do not dispute that the claims at issue here are encompassed by the “Scope of 12 Arbitration” section of the MAA, which states that the agreement applies to “all claims . . . of any 13 kind or type . . . arising out of or relating to the Employee’s employment by Employer.” Lingle

14 Decl., Ex. A. Therefore, the Court need only determine “whether a valid agreement to arbitrate
15 exists.” *Chiron Corp.*, 207 F.3d at 1130. 16 Chavoya contends that Merrill Gardens fails to
adequately establish that the parties 17 entered into the arbitration agreement. Doc 37 at 5. He
argues that Merrill Gardens’ declarant, 18 Morei Lingle, does not have personal knowledge of
Chavoya’s alleged execution of the 19 agreement. *Id.* Chavoya asserts that (1) he does not recall
ever seeing the MAA prior to bringing 20 this legal action and does not recognize it, (2) he does
not recall affixing or transmitting his 21 electronic signature on the MAA, (3) he was unfamiliar
with arbitration and did not know what it 22 entailed prior to this lawsuit, (4) no one associated
with Merrill Gardens ever explained or 23 2 The MMA provides that “[t]he scope of arbitration
shall be to the full extent permitted under

24 Section 2 of the Federal Arbitration Act (‘FAA’)” and that “[t]his Agreement is intended by the
Employer and Employee to be enforceable under the FAA, and supersedes any state law to the 25
contrary of this Agreement.” Lingle Decl., Ex. A. At least one court considering an arbitration
agreement’s express identification of the FAA as the governing statute, along with the general 26
principle that the FAA governs arbitration agreements, has concluded that there was a 27
presumption that the agreement in that case was enforceable under the FAA absent a statutory
exception indicating otherwise. See *Mitchell v. Lineage Logistics Servs. LLC*, 769 F. Supp. 3d 28
1132, 1140 (E.D. Cal. 2025). 1 discussed what arbitration was with him throughout his
employment, and (5) he would have 2 declined to sign the MAA had he understood the meaning
of arbitration. Chavoya Decl. ¶¶ 3–8. 3 Chavoya also raises several objections to Ms. Lingle’s
declaration. Doc. 37-1.3 4 Chavoya’s arguments concerning whether he entered into the
arbitration agreement are 5 unpersuasive. Merrill Gardens properly authenticated Chavoya’s
electronic signature on the 6 arbitration agreement and has shown by a preponderance of the
evidence that Chavoya entered 7 into the agreement. See Lingle Decl. & Supp. Lingle Decl. “To
authenticate evidence, a party 8 must ‘produce evidence sufficient to support a finding that the
item is what the proponent claims 9 it is.’ *Am. Fed’n of Musicians of the U.S. v. Paramount
Pictures Corp.*, 903 F.3d 968, 976 (9th

10 Cir. 2018) (citing Fed. R. Evid. 901(a)). There are many methods of authenticating evidence
11 under Federal Rule of Evidence 901(b), and the proponent’s burden has been characterized as
12 13 3 With respect to Chavoya’s objections that Ms. Lingle lacks personal knowledge of the
facts set 14 forth in her declaration, “[p]ersonal knowledge may be inferred from a declarant’s
position.” In 15 *re Kaypro*, 218 F.3d 1070, 1075 (9th Cir. 2000). “[T]he requirement of personal
knowledge imposes only a ‘minimal’ burden on a witness.” *Strong v. Valdez Fine Foods*, 724 F.3d
1042, 16 1045 (9th Cir. 2013). Ms. Lingle’s declaration meets this standard by establishing her
position as Merrill Gardens’ Chief Administrative Officer as well as her 28 years of experience
with the 17 company. Lingle Decl. ¶ 1. Her declaration also demonstrates her familiarity with
Merrill Gardens’ organizational structure and business operations, *Id.* ¶ 2, and her supplemental 18
declaration further establishes her familiarity with the company’s recordkeeping, human 19

resources procedures, and onboarding procedure, Supp. Lingle Decl. ¶ 2. Therefore, Chavoya's personal knowledge objections are overruled. 20 Chavoya also objects to Ms. Lingle's supporting exhibits as hearsay. Doc. 37-1 at 2–3. A “record [that] was kept in the course of a regularly conducted activity of a business” is not 21 excluded by the rule against hearsay. Fed. R. Evid. 803(6). Exhibits A and C are business records kept in the ordinary course of business and were generated at the time Chavoya 22 electronically signed the MAA, and, therefore, fall within the business record exception to 23 hearsay. Lingle Decl. ¶ 7, 11; Supp. Lingle Decl. ¶ 8; see also *Barrera v. Floor and Decor Outlets of America, Inc.*, No. 2:24-CV-02390-SB-KES, 2024 WL 3993871, *3 (C.D. Cal. July 11, 24 2024) (arbitration agreement and audit trail admissible where declaration demonstrated “requisite knowledge of the company's record-keeping practices”). Chavoya's hearsay objections to these 25 exhibits are thus overruled. Finally, Chavoya objects to a portion of Ms. Lingle's statement on the basis that it lacks 26 probative value. Doc. 37-1 at 2 (quoting Lingle Decl. ¶ 6). Given that the Court did not rely on 27 the objected-to portion of this evidence in reaching its decision on the instant motion, this objection is overruled as moot. 28 1 “not high.” See *Prostek v. Lincare Inc.*, 662 F. Supp. 3d 1100, 1111 (E.D. Cal. 2023).4 2 Merrill Gardens has established through Ms. Lingle's declarations and the attached 3 exhibits that Chavoya signed the arbitration agreement along with other onboarding documents 4 on February 21, 2022. See Lingle Decl., Exs. A–C & Supp. Lingle Decl., Ex. D. Ms. Lingle's 5 original declaration establishes her familiarity with Merrill Gardens' organizational structure and 6 its business operations. Lingle Decl. ¶ 2. Her supplemental declaration further establishes her 7 familiarity with the company's recordkeeping, human resources procedures, and onboarding 8 procedure. Supp. Lingle Decl. ¶ 2. She describes the onboarding procedure, including the 9 process used to obtain electronic signatures from new employees, and provides the arbitration 10 agreement that Chavoya electronically signed. Lingle Decl. ¶ 7–12, Exs. A–C & Supp. Lingle 11 Decl. ¶ 5–10, Ex. D. Based on these facts, Ms. Lingle's declarations sufficiently authenticate the 12 signed arbitration agreement for purposes of Federal Rule of Evidence 901(a). 13 Chavoya argues that he did not agree to arbitration because he has “no recollection of 14 having seen the MAA” and has “no recollection of affixing or transmitting the electronic 15 signature.” Chavoya Decl. ¶ 3–4. Chavoya's lack of recollection does not contradict the 16 evidence that he signed the arbitration agreement, nor does it establish a lack of mutual consent. 17 Under California law, a valid contract requires “mutual consent of the parties,” which is 18 “achieved through the process of offer and acceptance.” *DeLeon v. Verizon Wireless, LLC*, 207 19 Cal. App. 4th 800, 813 (2012) (internal citations omitted). An offeree “may be held to have 20 accepted, by his conduct, whatever terms the offer contains” so long as there was a sufficient 21 “outward manifestation or expression of assent.” *Windsor Mills, Inc. v. Collins & Aikman Corp.*, 22 25 Cal. App. 3d 987, 992 (1972). These principles apply to all contracts, including arbitration 23 agreements. *Nguyen v. Barnes & Noble Inc.*, 763 F.3d 1171, 1175 (9th Cir. 2014). Mutual 24 consent “is determined [based on] the reasonable meaning of [the parties'] words and acts, and 25 4 In his reply, Chavoya

cites a California Court of Appeal case for the proposition that a party opposing arbitration can shift the burden of production back to the proponent of arbitration by 26 simply “challeng[ing] the authenticity of the agreement by saying under penalty of perjury that 27 [they] did not remember it.” Doc. 37 at 7 (citing *Gamboa v. Northeast. Community Clinic*, 72 Cal. App. 5th 158, 168 (2021)). However, *Gamboa* does not control here, as the Federal Rules of 28 Evidence and not the California Evidence Code apply. See *Prostek*, 662 F. Supp. 3d at 1111. 1 not their unexpressed intentions or understandings.” Id. 2 Ms. Lingle’s declarations and attached exhibits establish the steps that Chavoya, as a new 3 employee, necessarily followed through the online onboarding process, including Chavoya’s 4 specific acknowledgement of and consent to the arbitration agreement. See generally Lingle. 5 Decl. During this process the arbitration agreement was separately identified, and Chavoya 6 separately entered his electronic signature agreeing to it. Id. ¶ 7–9, 12. The onboarding steps 7 clearly identified the option to opt out of the arbitration agreement in bolded language, which 8 Chavoya did not exercise. Lingle Decl., Ex. A § 7. Chavoya does not provide any evidence to 9 the contrary, stating only that he does not recall signing the agreement. Chavoya Decl. ¶ 4. 10 Chavoya argues that Merrill Gardens failed to “provide evidence that the employee’s 11 actions were the exclusive way an acknowledgement form bearing the employee’s credentials 12 could be created.” Doc. 37 at 8 (citing *Ruiz v. Moss Bros. Auto Group, Inc.*, 232 Cal. App. 4th 13 836, 843–44 (2014)). California Civil Code section 1633.9(a) states that an electronic signature 14 can be attributed to a person when the act of that person is demonstrated through “a showing of 15 the efficacy of any security procedure applied to determine the person to which the electronic 16 record or electronic signature was attributable.” In *Ruiz*, “the fact the . . . agreement had an 17 electronic signature on it in the name of [the plaintiff], and a date and time stamp for the 18 signature, was insufficient to support a finding that the electronic signature was, in fact, ‘the act 19 of’ [the plaintiff]” absent evidence or an explanation from the defendant’s declaration supporting 20 the fact that the plaintiff signed the agreement. *Ruiz*, 232 Cal. App. 4th at 843–44. 21 *Ruiz* is distinguishable from the present case. Unlike the declaration in *Ruiz*, Ms. Lingle’s 22 declarations and supporting exhibits provide sufficient evidence to support the finding that the 23 electronic signature on the MAA does, in fact, belong to Chavoya. Ms. Lingle’s declarations are 24 akin to the declaration in *Lira v. National Distribution Centers, LLC*, No. EDCV 21-672 JGB 25 (KKx), 2021 WL 6693934, at *2–3 (C.D. Cal. Dec. 22, 2021). In *Lira*, the defendant’s director 26 of benefits “explain[ed] that the UKG Pro platform is a secure system requiring a unique login ID 27 and password,” and that “employees must create a UKG Pro account with the unique login ID and 28 password and must view and sign onboarding documents on the platform.” Id. The *Lira* court 1 found that through this declaration, the defendant “met its burden to prove the existence of a 2 valid arbitration agreement between the parties.” Id. Here, Merrill Gardens used the same 3 platform, UKG, to obtain electronic signatures from its employees. Lingle Decl. ¶ 9. Further, 4 Ms. Lingle includes detailed information in her declaration about the process through which 5 “employees are provided unique IDs for the UKG

platform” and are required to “create a 6 permanent password to ensure no one else can access their UKG account.” Id. ¶ 10. Ms. Lingle 7 also attaches a signature audit report from UKG which shows that Chavoya viewed and signed 8 the MAA on February 21, 2022 at around 3:21 p.m. PST. Id., Ex. C. 9 The declaration in Lira was sufficient to authenticate the employee’s signature even where 10 an audit report was not presented, although some courts have indicated that an audit trail can help 11 authenticate an employee’s signature on an arbitration agreement. See, e.g., Taft v. Henley 12 Enters., Inc., No. SACV 15–1658–JLS (JCGx), 2016 WL 9448485, *3 (audit trail generated 13 during onboarding process where employee was left alone was sufficient to demonstrate the 14 authenticity of employee’s signature on arbitration agreement); Smith v. Rent-A-Center, No. 1:18- 15 CV-01351 LJO JLT, 2019 WL 1294443, *6 (signature not authenticated where “no audit trail 16 [was] discussed”). 17 Here, Merrill Gardens includes a full version of Chavoya’s signature audit report, which 18 identifies an IP address that was consistently used for every onboarding document signed by 19 Chavoya, including documents requiring Chavoya to input tax documentation and other personal 20 information. Supp. Lingle Decl., Ex. D. In Espejo v. Southern California Permanente Medical 21 Group, the court found that similar supporting documentation including the employee’s IP 22 address established that the signature in question “could have only been placed on the signature 23 pages of the employment agreement . . . by someone using [the employee’s] unique user name 24 and password.” 246 Cal. App. 4th 1047, 1062 (2016). Notably, Chavoya concedes that Merrill 25 Gardens instructed him to review documents on or about the date prior to his first day of 26 employment. Chavoya Decl. ¶ 5. This admission supports the conclusion that Chavoya was the 27 individual who signed the MAA because, as Ms. Lingle states in her supplemental declaration, “at 28 the same time he electronically signed the Agreement, Plaintiff completed tax documentation 1 through the UKG platform [which] required him to input personal information that it is unlikely 2 someone else would have known and that, to the best of [her] knowledge, no one at Merrill 3 Gardens knew.” See Supp. Lingle. Decl. ¶ 10, Ex. D. This assertion is supported by a longer 4 signature audit report, which reveals that the same IP address was used to complete several 5 onboarding documents on the same day, at around the same time. Id. 6 For these reasons, Merrill Gardens has presented sufficient evidence to demonstrate that 7 the signature on the MAA belongs to Chavoya, and “the making of the arbitration agreement” is 8 therefore not at issue. 9 U.S.C. § 4. Accordingly, the Court concludes that Chavoya entered into 9 a valid arbitration agreement. 10 C. Unconscionability 11 Finally, Chavoya contends that the arbitration agreement is unconscionable and should not 12 be enforced. “Under California law, ‘the party opposing arbitration bears the burden of proving 13 any defense, such as unconscionability.’” Bielski v. Coinbase, Inc., 87 F.4th 1003, 1013 (9th 14 Cir. 2023) (quoting Pinnacle Museum Tower Ass’n v. Pinnacle Mkt. Dev. (US), LLC, 55 Cal. 4th 15 223, 236 (2012)). If a contract or clause was unconscionable at the time it was made, a court

may 16 refuse to enforce the contract, enforce the remainder of the contract without the unconscionable 17 clause, or limit the application of any unconscionable clause to avoid an unconscionable result. 18 Cal. Civ. Code § 1670.5(a). Unconscionability has both procedural and substantive elements, 19 “the former focusing on oppression or surprise due to unequal bargaining power, the latter on 20 overly harsh or one-sided results.” *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 340 (2011) 21 (quoting *Armendariz v. Found. Health Psychcare Servs., Inc.*, 24 Cal. 4th 83, 114 (2000)). 22 Under California law, “unconscionability requires a substantial degree of unfairness 23 beyond a simple old-fashioned bad bargain.” *Mohamed v. Uber Techs., Inc.*, 848 F.3d 1201, 24 1210 (9th Cir. 2016) (cleaned up) (quoting *Baltazar v. Forever 21, Inc.*, 62 Cal. 4th 1237, 1244 25 (2016)). Unconscionability “is concerned . . . with terms that are unreasonably favorable to the 26 more powerful party.” *Bielski*, 87 F.4th at 1013 (quoting *Sanchez v. Valencia Holding Co., LLC*, 27 61 Cal. 4th 899, 911 (2015)). “[B]oth procedural and substantive unconscionability must be 28 present in order for an agreement to be unenforceable.” *Mohamed*, 848 F.3d at 1211 (citation 1 omitted); see also *Kilgore v. KeyBank, Nat’l Ass’n*, 718 F.3d 1052, 1058 (9th Cir. 2013) (en banc) 2 (same). While both elements must be shown to establish the unconscionability defense, they need 3 not be present in the same degree—they are weighed on a sliding scale, which allows a lesser 4 finding of procedural unconscionability when there is significant substantive unconscionability 5 present, and vice versa. *Armendariz*, 24 Cal. 4th at 114. 6 1. Procedural Unconscionability 7 *Chavoya* contends that the arbitration agreement is a procedurally unconscionable contract 8 of adhesion since it was “a pre-printed form agreement which was finalized prior to presentment” 9 and “not a single term set forth in the MAA was a product of negotiation between the parties.”

10 Doc. 37 at 17. He further argues that the opt-out provision does not save the agreement from 11 being procedurally unconscionable because “the opportunity to reject the agreement does not 12 negate the adhesive character of a contract, which arises from the ability to bargain, not the 13 inability to reject the agreement altogether.” *Id.* at 18. 14 “The threshold inquiry in California’s unconscionability analysis is ‘whether the 15 arbitration agreement is adhesive.’” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1281 (9th 16 Cir. 2006) (quoting *Armendariz*, 24 Cal. 4th at 113). A contract of adhesion is “a standardized 17 contract, imposed upon the subscribing party without an opportunity to negotiate the terms.” *Id.* 18 (citation omitted). “Arbitration contracts imposed as a condition of employment are typically 19 adhesive.” *OTO, LLC v. Kho*, 8 Cal. 5th 111, 126 (2019); see also *Armendariz*, 24 Cal. 4th at 115 20 (“[i]n the case of preemployment arbitration contracts, the economic pressure exerted by 21 employers on all but the most sought-after employees may be particularly acute, for the 22 arbitration agreement stands between the employee and necessary employment, and few 23 employees are in a position to refuse a job because of an arbitration agreement”). 24 However, as the Ninth Circuit has held, “an arbitration agreement is not adhesive if there 25 is an opportunity to opt out of it.” *Mohamed*, 848 F.3d at 1211 (citing *Circuit City Stores, Inc. v. 26 Ahmed*, 283

F.3d 1198, 1199 (9th Cir. 2002)); see also Kilgore, 718 F.3d at 1059. In Mohamed, 27 the Ninth Circuit reversed the district court's denial of Uber's motion to compel arbitration of a 28 former Uber driver's claims, finding that Uber's arbitration agreements were not adhesive 1 because the plaintiff had a meaningful opportunity to opt out of them, and that the challenged 2 terms of the agreements were therefore not procedurally unconscionable. Mohamed, 848 F.3d 3 at 1211. The agreements in Mohamed, as here, provided the plaintiff with the option to opt out of 4 arbitration by delivering notice of an intent to opt out. Id. The opt out provision in one of the 5 Uber agreements required drivers to opt out either in person at Uber's San Francisco offices or by 6 overnight delivery service. Id. at 1210–11. The Ninth Circuit held that this opt out procedure 7 was not illusory. Id. at 1211. As the opt-out provisions in the Uber agreements provided a 8 meaningful choice to Uber drivers, the Court concluded the agreements were neither adhesive nor 9 procedurally unconscionable. Id. at 1211–12. 10 Mohamed controls the outcome in this case. As in Mohamed, Chavoya was clearly 11 notified of the option to opt out of Merrill Gardens' arbitration agreement and the window in 12 which to do so. See Lingle Decl., Ex. A § 7. The opt-out procedure mirrors the procedure upheld 13 in Mohamed: Chavoya was similarly required to deliver the opt-out form to Merrill Gardens by 14 mail, and he was given 10 days to do so. Id. 15 Chavoya did not elect to opt out. As in Mohamed, 15 the arbitration agreement was not adhesive as it contained a meaningful opt out option, and the 16 agreement here is therefore not procedurally unconscionable. See Mohamed, 848 F.3d at 1211. 17 Chavoya asserts that “very recent case authority has clarified that a finding of procedural 18 unconscionability does not require a showing by an employee that he/she/they unsuccessfully 19 attempted to bargain with the employer.” Doc. 37 at 18 (citing Jenkins v. Dermatology Mgmt., 20 107 Cal. App. 5th 633, 642 (2024) (arbitration agreement procedurally unconscionable where 21 reasonable person would have concluded it was a take-it-or-leave-it condition of employment)). 22 Unlike the plaintiff in Jenkins, Chavoya had a meaningful opportunity to opt out of the MAA and 23 did not do so. In fact, the MAA's opt-out provision notes that employees may opt out of the 24 agreement without any adverse effect on their employment, meaning that Chavoya could have 25 opted out of the agreement and continued to work for Merrill Gardens; it was not a condition of 26 27 5 See also, Huitron v. Pro Motorcars, 2022 Cal. Super. LEXIS 82908, at *7 (Cal. Super. Ct. Dec. 8, 2022) (procedural unconscionability tempered where plaintiffs had a right to opt out of 28 agreement no less than 10 days from the date agreement was signed). 1 his employment that he sign it. See Lingle Decl., Ex. A § 7. 2 To the extent Chavoya argues that, notwithstanding the meaningful opt-out option, the 3 arbitration agreement is nonetheless adhesive and thus procedurally unconscionable, this 4 argument is foreclosed by Ninth Circuit precedent. See, e.g., Kilgore, 718 F.3d at 1059 5 (arbitration clause not procedurally unconscionable where there was a meaningful opt-out 6 option); Mohamed, 848 F.3d at 1211 (“an arbitration agreement is not adhesive if there is an 7 opportunity to opt out of it”). 8 2. Substantive Unconscionability 9 Chavoya argues that the MAA cannot be enforced because it contains several 10 substantively unconscionable provisions,

including (1) an unconscionable fee provision, (2) a 11 wholesale PAGA waiver, and (3) non-arbitrable claims. Doc. 37 at 18-24. 12 a. Unconscionable Fee Provision 13 Chavoya asserts that the MAA's fee provision is unconscionable because it allows only 14 the employer to recover attorney's fees. Doc. 37 at 19 (citing Lingle Decl., Ex. A § 6). "[A]n 15 arbitration agreement may not limit statutorily imposed remedies such as . . . attorney fees." 16 Armendariz, 24 Cal. 4th at 103. Here, arbitration under the MAA is "administered by the Judicial 17 Arbitration and Mediation Services, Inc. ('JAMS') [and is] subject to JAMS' Policy on 18 Employment Arbitration Minimum Standards of Procedural Fairness." Lingle Decl., Ex. A § 5. 19 These standards "mandate that the arbitrator be permitted to award '[a]ll remedies that would be 20 available under the applicable law in a court proceeding, including attorneys fees . . .'" JAMS 21 Policy on Employment Arbitration Minimum Standards of Procedural Fairness, JAMS (effective 22 July 15, 2019), <https://www.jamsadr.com/employment-minimum-standards/>. Additionally, 23 Chavoya's interpretation of the MAA's fee provision is unconvincing in light of Merrill Gardens' 24 concession that Chavoya can seek attorney's fees. Doc. 38 at 8–9. The MAA therefore does not 25 limit attorney's fees and is not substantively unconscionable for that reason. 26 b. Wholesale PAGA Waiver 27 Chavoya argues the MAA's requirement to arbitrate certain claims individually 28 constitutes a violation of the California Supreme Court's holding in *Iskanian v. CLS 1 Transportation Los Angeles, LLC*, 59 Cal. 4th 348 (2014), abrogated on other grounds by *Viking 2 River Cruises, Inc. v. Moriana*, 596 U.S. 639 (2022), which rendered employment agreements 3 containing predispute categorical waivers of the right to bring representative PAGA claims 4 contrary to public policy and unenforceable as a matter of state law. Doc. 37 at 19–20. 5 Chavoya's argument is of limited relevance here because Chavoya has not brought a PAGA claim 6 in the present case.⁶ In fact, Merrill Gardens represents that Chavoya "currently has a PAGA 7 representative action pending against Defendant in Fresno County Superior Court, which 8 Defendant has not argued is barred by the parties' Agreement." Doc. 38 at 9. Based on that 9 representation, it appears that the MAA does not operate as a wholesale PAGA waiver. 10 Therefore, the MAA is not substantively unconscionable in this respect. 11 c. Inclusion of Non-Arbitrable Claims 12 Finally, Chavoya argues that since the Scope of Arbitration section of the MAA "broadly 13 lists all employment claims covered by the MAA without excepting sexual harassment and 14 assault claims," it is illegal and unconscionable. Doc. 37 at 20. The Ending Forced Arbitration of 15 Sexual Assault and Sexual Harassment Act of 2021 ("EFAA") bars the forced arbitration of 16 sexual harassment and assault claims. 9 U.S.C. §§ 401–02. Here, Chavoya is not asserting any 17 sexual harassment or assault claims. See generally Compl. Further, the MAA states that it does 18 not apply to "claims that cannot be arbitrated as a matter of law." Lingle Decl., Ex. A § 1. Since 19 sexual harassment and assault claims cannot be arbitrated as a matter of law under the EFAA, the 20 MAA is not unconscionable since it does not apply to those claims. 21 Therefore, the MAA is not substantively unconscionable. Because both substantive and 22 procedural unconscionability are required for an agreement to be

unenforceable, the MAA is not 23 unenforceable on these grounds. Having found the MAA to be valid and enforceable, and 24 because Chavoya's claim is encompassed by that agreement, the Court grants Merrill Garden's 25 6 Even if Chavoya had brought a PAGA claim in this case and assuming section 8 of the MAA 26 did constitute a wholesale waiver, the agreement contains a severability clause which allows the 27 remainder of the agreement to be enforceable in the event any portion is deemed unenforceable. Lingle Decl., Ex. A § 12; see also Viking River, 596 U.S. at 662 (employer entitled to enforce 28 agreement as to employee's individual PAGA claim because of severability clause). 1 | motion to compel Chavoya's claims to arbitration.

2 | IV. CONCLUSION

3 For the reasons explained above: 4 1. Merrill Gardens' motion to compel arbitration, Doc. 34, is granted; 5 2. The parties shall submit all claims pending in this matter to arbitration in 6 accordance with the employment arbitration policy signed on February 21, 2022 7 (Lingle Decl., Ex. A); 8 3. This action is dismissed without prejudice; and 9 4. The Clerk of the Court is directed to close this case. 10

IT IS SO ORDERED. _

12 4h Dated: _ July 31, 2025

13 UNITED STATES DISTRICT □

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