

1 The Federal Arbitration Act (“FAA”) “provides that arbitration agreements ‘shall
2 be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity
3 for the revocation of any contract.’” *Chalk v. T-Mobile USA, Inc.*, 560 F.3d 1087, 1092
4 (9th Cir. 2009) (quoting 9 U.S.C. § 2). The FAA “leaves no place for the exercise of
5 discretion by a district court, but instead mandates that district courts shall direct the
6 parties to proceed to arbitration on issues as to which an arbitration agreement has been
7 signed.” *Dean Witter Reynolds, Inc. v. Byrd*, 470 U.S. 213, 218 (1985). “The court’s role
8 under the [FAA] is therefore limited to determining (1) whether a valid agreement to
9 arbitrate exists and, if it does, (2) whether the agreement encompasses the dispute at
10 issue.” *Chiron Corp. v. Ortho Diagnostic Sys., Inc.*, 207 F.3d 1126, 1130 (9th Cir. 2000).
11 “If the court finds that an arbitration clause is valid and enforceable, the court should stay
12 or dismiss the action to allow the arbitration to proceed.” *Kam–Ko Bio–Pharm Trading*
13 *Co. Ltd–Australasia v. Mayne Pharma*, 560 F.3d 935, 940 (9th Cir. 2009).

14 Defendant argues that Plaintiff entered into an arbitration agreement when
15 Plaintiff sought to rent equipment from Defendant. (Mot. at 3.) Plaintiff argues that it
16 never entered into an arbitration agreement with Defendant because the arbitration
17 agreement was not signed by Defendant’s representative and the contract was voided.
18 (Doc. 30, Pl.’s Resp. to Mot. at 5.) Plaintiff also argues that even if there was a contract,
19 the contract would not cover Plaintiff’s claims. (*Id.* at 7.) Assuming there was a valid
20 agreement between the parties, the Court concludes that Plaintiff’s claims are not
21 encompassed in the agreement. The arbitration clause states, in pertinent part,

22 **YOU AND WE AGREE THAT ANY AND ALL DISPUTES ARISING**
23 **OUT OF OR RELATING IN ANY WAY TO YOUR**
24 **AGREEMENT(S) WITH AARON’S, INC. D/B/A (“Aaron’s” or “we”),**
25 **THE PRODUCTS OR SERVICES PROVIDED TO YOU BY**
26 **AARON’S, OR THE AMOUNTS PAID OR OWED BY YOU TO**
AARONS (“Disputes”) SHALL BE RESOLVED EXCLUSIVELY IN
BINDING ARBITRATION RATHER THAN LITIGATION IN
COURT.

27 (Doc. 31-1, Substitute Ex. A Tab 3 at 2.) When parties dispute whether an arbitration
28 clause applies to a particular type of controversy, the question is for the court. *Howsam v.*

1 *Dean Witter Reynolds, Inc.*, 537 U.S. 79, 84 (2002). The court applies a narrow
2 construction to arbitration clauses that only address disputes “arising under” the contract
3 or agreement itself, but applies a broad construction to arbitration provisions that by their
4 terms apply to disputes “relating to” the agreement. *Cape Flattery Ltd. v. Titan Mar.,*
5 *LLC*, 647 F.3d 914, 921-22 (9th Cir. 2011). Because the present provision includes both,
6 the broad construction applies. *See id.* at 922. Applying the broad construction, Plaintiff’s
7 factual allegations must “touch matters covered by the contract containing the arbitration
8 clause.” *Simula, Inc. v. Autoliv, Inc.*, 175 F.3d 716, 721 (9th Cir. 1999) (internal citations
9 omitted).

10 Defendant argues that because Plaintiff signed a lease agreement that permitted
11 automated calls to his phone number, his claim arises out of their agreement. (Mot. at
12 13.) Plaintiff argues that his claim is not related to the lease agreement he signed, and
13 therefore, does not arise out of his agreement with Defendant. (Pl.’s Resp. to Mot. at 8.)
14 The calls at issue here did not refer to Plaintiff’s lease agreement, but were part of
15 Defendant’s efforts to collect an unpaid balance from another customer. (Compl. ¶ 16.)
16 Plaintiff did not consent to receiving calls on another customer’s account, is not party to
17 the other customer’s agreement, and asked Defendant to stop calling on more than one
18 occasion. (*Id.* ¶¶ 19-20.) The calls do not arise out of any agreement between Plaintiff
19 and Defendant, but from Aaron’s agreement with another customer. (*Id.* ¶¶ 4-5.) The
20 Court is unpersuaded by Defendant’s argument that Plaintiff consented to calls regarding
21 another customer’s nonpayment when he consented to receiving automated calls
22 regarding his lease of equipment. (*See* Mot. 13-15); *see also Porter v. Dollar Financial*
23 *Group, Inc.*, 2014 WL 4368892 *2 (E.D. Cal. Sept. 2, 2014) (noting that when a
24 defendant’s improper calls stem from a third-party contract unrelated to the plaintiff, the
25 claims are not related to the agreement). Therefore, the Court denies Defendant’s Motion
26 to Compel Arbitration.

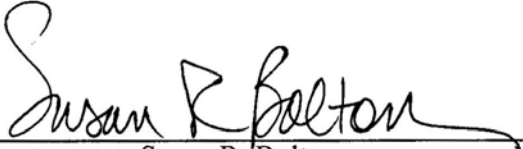
27 **III. CONCLUSION**

28 The Court denies Defendant’s Motion to Compel Arbitration because even if there

1 was a valid arbitration agreement, the agreement did not encompass Plaintiff's claims.

2 **IT IS ORDERED** denying Defendant's Motion to Compel Arbitration and Stay
3 Proceedings (Doc. 26).

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5 Dated this 21st day of April, 2016.

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10 Susan R. Bolton
11 United States District Judge
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