

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

TWC ADMINISTRATION LLC,)		
)		
Plaintiff,)		
)		
v.)	Case No.	4:17-CV-00235-BCW
)		
TIMOTHY CATHEY,)		
)		
Defendant.)		

ORDER

Before the Court is Plaintiff TWC Administration Inc.’s Motion to Compel Arbitration and Stay the State Court Action (Doc. #2) and Motion for a Preliminary Injunction (Doc. #4), and Defendant Timothy Cathey’s Motion to Dismiss (Doc. #9), Motion to Stay (Doc. #20), and Motion for Attorney’s Fees (Doc. #10). The Court, being duly advised of the premises, grants Plaintiff’s motion to compel arbitration and stay the state court action and motion for a preliminary injunction, and denies Defendant’s motions to dismiss, motion to stay, and motion for attorney’s fees.

Plaintiff requests this Court compel arbitration under the Federal Arbitration Act, 9 U.S.C. §§ 1-16, and enjoin a state action in which Defendant has sought relief for employment claims. (Doc. #2). Plaintiff initially unsuccessfully argued in state court that Defendant was required to arbitrate his claims. Plaintiff is currently appealing that decision at the Missouri Court of Appeals for the Western District of Missouri.

The Court held a hearing in this matter on June 19, 2017. Both Plaintiff and Defendant appeared through counsel.

Consistent with the rulings on the record, and for the reasons cited by Plaintiff in its Suggestions in Opposition, the Court denies Defendant's Motion to Dismiss and Motion for Attorney's Fees without further comment. Upon further consideration, the Court also denies Defendant's Motion to Stay, as a stay in this case would, in essence, amount to an improper refusal to exercise jurisdiction. See, e.g., Cottrell v. Duke, 737 F.3d 1238, 1249 (8th Cir. 2013).

Turning to the merits of the case, both Plaintiff and Defendant put on evidence at the hearing regarding the arbitration agreement. Defendant challenged only his acceptance of the terms of the arbitration agreement, while Plaintiff argued that Defendant accepted the agreement electronically in the course of starting his employment.

Acceptance of an offer is a manifestation of assent to the terms thereof made by the offeree in a manner invited or required by the offer. Whether there exists mutual assent sufficient to form a contract is dependent upon the *objective* intentions of the parties. The parties' intentions are manifested by reviewing the parties' actions and words.

Jackson v. Higher Educ. Loan Auth. of Missouri, 497 S.W.3d 283, 289 (Mo. Ct. App. 2016)

(citations and quotations omitted).

Missouri law recognizes electronic signatures, such as is at issue here, are valid. Mo. Rev. Stat. § 432.230. Having duly considered the record and the applicable law, the Court finds that Plaintiff has adequately proven Defendant's electronic acceptance of the arbitration agreement. As such, the Court finds Defendant's electronic agreement valid, and that he is thus bound to the terms of the agreement, and accordingly grants the Plaintiff's motion to compel arbitration.

As for Plaintiff's motion for a preliminary injunction,

[a] district court's decision to issue a preliminary injunction depends upon a 'flexible' consideration of (1) the threat of irreparable harm to the moving party; (2) balancing this harm with any injury an injunction would inflict on other interested parties; (3) the probability that the moving party would succeed on the merits; and (4) the effect on the public interest.

Richland/Wilkin Joint Powers Auth. v. U. S. Army Corps of Engineers, 826 F.3d 1030, 1036 (8th Cir. 2016) (citations omitted).

Given that the Court finds the arbitration agreement valid, Plaintiff would be irreparably harmed by further litigation regarding the agreement's validity. By contrast, as he is bound by the terms of the agreement, Defendant is not harmed by an injunction. The Court has determined Plaintiff's merits argument successful, and the public interest can only be served by the enforcement of a valid arbitration agreement. As such, the Court grants Plaintiff's Motion for a Preliminary Injunction. Accordingly, it is hereby

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ORDERED Defendant's Motion to Dismiss (Doc. #9) is DENIED. It is further

ORDERED Defendant's Motion for Attorney's Fees (Doc. #10) is DENIED. It is further

ORDERED Defendant's Motion to Stay (Doc. #20) is DENIED. It is further

ORDERED Plaintiff's Motion to Compel Arbitration (Doc. #2) is GRANTED. Parties shall henceforth commence arbitration proceedings in accordance with the arbitration agreement. It is further

ORDERED Plaintiff's Motion for a Preliminary Injunction (Doc. #4) is GRANTED. Defendant is enjoined from pursuing further litigation based on his claims in any venue other than arbitration.

IT IS SO ORDERED.

Dated: July 6, 2017

/s/ Brian C. Wimes
JUDGE BRIAN C. WIMES
UNITED STATES DISTRICT COURT