

ENTERED

June 20, 2016

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JOY MATHEW,

Plaintiff,

VS.

AUSTIN INDUSTRIAL SERVICES, LP,

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-16-00867

ORDER DISMISSING CASE IN FAVOR OF ARBITRATION

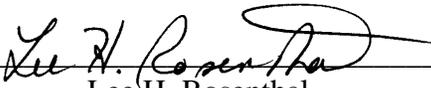
The parties, Joy Mathew and Austin Industrial Services, LP, filed an agreed motion to stay and compel arbitration. (Docket Entry No. 13). The court grants the motion to compel. Because the agreed motion requires the parties to arbitrate all the issues raised in the litigation, Fifth Circuit precedent supports dismissal without prejudice in favor of the arbitration, not a stay. *See Alford v. Dean Witter Reynolds, Inc.*, 975 F.2d 1161, 1164 (5th Cir. 1992) (§ 3 of the Federal Arbitration Act “was not intended to limit dismissal of a case in the proper circumstances”; if all of the issues raised before the district court are arbitrable, dismissal of the case is appropriate). As the Fifth Circuit explained in *Alford*:

Although we understand that plaintiff’s motion to compel arbitration must be granted, we do not believe the proper course is to stay the action pending arbitration. Given our ruling that all issues raised in this action are arbitrable and must be submitted to arbitration, retaining jurisdiction and staying the action will serve no purpose. Any post-arbitration remedies sought by the parties will not entail renewed consideration and adjudication of the merits of the controversy but would be circumscribed to a judicial review of the arbitrator’s award in the limited manner prescribed by law.

Id.

This case is dismissed, without prejudice, in favor of arbitration.

SIGNED on June 20, 2016, at Houston Texas.



Lee H. Rosenthal
United States District Judge