

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

JAMES WEBB,)	
)	
Plaintiff,)	
v.)	Case No. 4:16-cv-00080-W-FJG
)	
FARMERS OF NORTH AMERICA,)	
INC., and JAMES MANN,)	
)	
Defendants.)	

ORDER

Before the Court is plaintiff's September 6, 2017 letter¹ regarding arbitration in this matter. Specifically, the parties dispute whether the parties' agreement to arbitrate this matter under the rules of the AAA also encompasses an agreement to submit the claims to the AAA for arbitration. The Court finds that it does not. Defendant argues that the rules of the AAA indicate "When parties agree to arbitrate under these rules...they thereby authorize the AAA to administer the arbitration." AAA Empl. R 3; AAA Comm'l R 2. The Court, however, finds that this rule does not, by itself, foreclose the use of an arbitrator outside of the AAA. The language of the contract at issue in this matter states:

Webb and FNA [defendant] agree to first mediate all disputes in good faith and may then submit to binding arbitration any claims that they may have against each other, of any nature whatsoever, other than those prohibited by law or for workers compensation, unemployment or disability benefits, pursuant to the rules of the American Arbitration Association. Webb agrees to this alternative dispute resolution process as a condition of employment.

¹ Defense counsel makes several arguments in his various letters to the Court and to plaintiff's counsel that somehow this letter is an improper ex parte communication with the Court. The Court disagrees, as it appears that the September 6, 2017 letter was sent to opposing counsel as well as to the Court. The Court further notes that the procedure used by plaintiff's counsel mirrors the one this Court uses to determine discovery disputes. To the extent that defendant argues sanctions against plaintiff's counsel should be imposed, that request is **DENIED**.

Doc. No. 1 (complaint), Ex. A. The Court finds this specific contractual language to be unclear as to whether the AAA must administer the arbitration. Plaintiff states that he believed when he was signing the agreement, he was simply agreeing that the arbitrator would use the rules of the AAA, but that he would not have to go through all the administrative expenses of actually arbitrating through the AAA.

In interpreting a contract, “a court will seek to ascertain the intent of the parties and to give effect to that intent.” “The intent of the parties to a contract is presumed to be expressed by the ordinary meaning of the contract’s terms.” If a contract’s language is not ambiguous, this court will enforce it as written. “If ambiguous, it will be construed against the drafter....”

Byrd v. Frank B. Wilson Tr., 182 S.W.3d 701, 706 (Mo.App. W.D. 2006) (citing Triarch Indus., Inc. v. Crabtree, 158 S.W.3d 772, 776 (Mo. banc 2005)). In this matter, at the very least, it is ambiguous as to whether the parties intended that, by using the rules of the AAA, the parties meant that the matter must be administered by the AAA. Therefore, the Court finds that, if defendant intended for all disputes to be presented to the AAA for arbitration, the defendant ought to have used such language in the contract.

Accordingly, plaintiff and defendant are **ORDERED** to work together to find a mutually acceptable arbitrator. The parties **SHALL** file a status report on or before November 7, 2017, indicating their progress at selecting an arbitrator.

IT IS SO ORDERED.

Date: October 10, 2017
Kansas City, Missouri

/S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge