UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 0:18-cv-60545-UU

ROSELYN METAYER,

Plaintiff,

v.

IEC US HOLDINGS, INC, *et al.*,

Defendants.
_____/

ORDER STAYING CASE

THIS CAUSE is before the Court upon the Parties' Joint Motion to Stay Proceedings Pending Arbitration. D.E. 18.

I. Background

THIS COURT has considered the pertinent portions of the record and is otherwise fully advised in the premises. On March 13, 2018, Plaintiff filed its Complaint against three Defendants, IEC US Holdings, Inc ("IEC"), and IEC's corporate officers: Fardad Fateri ("Fateri"), and Lars Vaaler. D.E. 1. The complaint alleged failure to pay wages under the Fair Labor Standards Act, 29 U.S.C. §§ 201-219, against all three defendants, and retaliation under the Florida Whistleblower Act, Fla. Stat. Ann. § 448.101 (West), and race and national origin discrimination under the Florida Civil Rights Act, Fla. Stat. Ann. § 760.10 (West), against IEC. *Id.* Subsequently, on April 15, 2018, Plaintiff voluntarily dismissed her claims against Defendant Lars Vaaler. D.E. 15. In the instant Motion, the Parties seek to stay the action pending the resolution of arbitration pursuant to an arbitration agreement between Plaintiff and IEC executed on July 6, 2015. D.E. 18.

II. Legal Standard

Section 3 of the Federal Arbitration Act ("FAA"), governs stays of proceedings where claims are referable to arbitrations:

> "If any suit or proceeding be brought in any of the courts of the United States upon any issue referable to arbitration under an agreement in writing for such arbitration, the court in which such suit is pending, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration under such an agreement, shall on application of one of the parties stay the trial of the action until such arbitration has been had in accordance with the terms of the agreement, providing the applicant for the stay is not in default in proceeding with such arbitration." 9 U.S.C. § 3.

"[T]he first task of a court asked to compel arbitration of a dispute is to determine whether the parties agreed to arbitrate that dispute." *Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.*, 473 U.S. 614, 626, 105 S. Ct. 3346, 3353, 87 L. Ed. 2d 444 (1985) (internal quotation omitted) (citation omitted). "Questions of arbitrability must be addressed with a healthy regard for the federal policy favoring arbitration." *Moses H. Cone Memorial Hospital v. Mercury Construction Corp*., 460 U.S. 1, 24-25, 103 S.Ct. 927, 941-942 (1983).

"The threshold questions a district court must answer when determining whether a case may be properly referred to arbitration are: (1) whether the parties entered into a valid arbitration agreement; and (2) whether the specific dispute falls within the scope of the agreement." Viamonte v. Biohealth Techs., Inc., No. 09-21522-CIV, 2009 WL 4250578, at *2 (S.D. Fla. Nov. 25, 2009) (citations omitted). If the Court determines that the issue falls within the scope of the arbitration agreement it must consider "whether legal constraints external to the parties' agreement foreclose[] the arbitration of those claims." *Mitsubishi Motors Corp*., 473 U.S. at 628, 105 S. Ct. at 3355, 87 L. Ed. 2d at 444.

III. Analysis

a. Is there a Valid Arbitration Agreement?

"The determination of whether a contract exists between the parties is governed … by state law." *Solymar Investments, Ltd. v. Banco Santander S.A.*, 672 F.3d 981, 991 (11th Cir. 2012). The arbitration agreement contains no choice of law clause, but the Court will apply Florida law to determine the validity of the agreement as no party has raised a choice of law issue. *Anderson v. McAllister Towing & Transp. Co.*, 17 F. Supp. 2d 1280, 1286 (S.D. Ala. 1998), aff'd sub nom. *Anderson v. McAllister Towing*, 202 F.3d 287 (11th Cir. 1999); *Burdett v. Miller*, 957 F.2d 1375, 1382 (7th Cir.1992). Here, neither party disputes the validity of the arbitration agreement, indeed they seek to enforce it, D.E. 18, nor is there any evidence of any issue that would render the contract invalid under Florida law. Accordingly, the Court finds that there is a valid arbitration agreement.[1]

However, while the arbitration agreement states that it is "binding on [Plaintiff] and [IEC], which for purposes of this agreement shall include all of the Company's … officers, or employees thereof[,]" D.E. 18-1 ¶ 1, it is only signed by Plaintiff and an IEC representative, not Fateri. *Id.* at 5. The parties note that various contract law principles enable enforcement of a contract against a nonsignatory, *Arthur Andersen LLP v. Carlisle*, 556 U.S. 624, 631, 129 S. Ct. 1896, 1902, 173 L. Ed. 2d 832 (2009), but such considerations are not relevant where the nonsignatory seeks to be bound by an agreement that purports to bind him.[2]

[1] The arbitration agreement provides for arbitration by a single mediator under the rules of the Judicial Arbitration and Mediation Services. D.E. 18-1 ¶ 6.

[2] Under Florida law, the agreement would also be binding on Fateri because he is a third-party beneficiary as the arbitration agreement directly benefits him by requiring arbitration of any of Plaintiff's claims connected to her employment (and therefore any claims between Plaintiff and Fateri related to such employment). *Jim Macon Bldg. Contractors, Inc. v. Lake County*, 763 So.2d 1223 (Fla. 5th DCA 2000).

b. Does the Dispute Fall Within the Terms of the Agreement?

The definition of "Claims" under the arbitration agreement is very broad: "any dispute, matter, controversy, demand, action … claim of any kind or nature whatsoever by [Plaintiff] or [Defendant] relating to … or involving [Plaintiff's] employment or termination of employment … whether arising under federal state, or local law. By way of example only, 'Claims' includes any claim under … The Fair Labor Standards Act." D.E. 18-1 at 1-2 (emphasis added). Thus, Plaintiff's claims under the Fair Labor Standards Act, the Florida Whistleblower Act, and the Florida Civil Rights Act are all encompassed by the arbitration agreement. Therefore, the Court finds that the parties agreed to arbitrate the instant dispute.

c. Other considerations

As already mentioned, there is no evidence of any other "legal constraints external to the parties' agreement [that would] foreclose[] the arbitration of those claims." *Mitsubishi Motors Corp*., 473 U.S. at 628, 105 S. Ct. at 3355, 87 L. Ed. 2d at 444.

IV. Conclusion

For the foregoing reasons, the Court finds that the claims before it are arbitrable. As the Parties have a valid arbitration agreement encompassing the claims before this Court, and as Section 3 of the Arbitration Act requires the Court to stay the action of arbitrable claims, the case is hereby stayed pending resolution of arbitration. Accordingly it is

ORDERED AND ADJUDGED that the case is HEREBY STAYED pending resolution of arbitration. It is further

ORDERED AND ADJUDGED that the parties SHALL FILE a status report EVERY SIXTY (60) days from the date of this order or IMMEDIATELY UPON RESOLUTION of the arbitration. It is further

ORDERED AND ADJUDGED that The Clerk of Court SHALL administratively close this case. All future hearings are CANCELLED and all pending motions are DENIED as MOOT.

DONE AND ORDERED in Chambers at Miami, Florida, this 9th day of April, 2018.

URSULA UNGARO
UNITED STATES DISTRICT JUDGE

copies provided: counsel of record