

CLEAR, UNMISTAKABLE, COMPELLING: Court Compels Arbitration Based On Inclusion Of AAA Rules

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Hey, TCPAWorld!

The District of Utah just issued a defendant-friendly decision staying a case and compelling arbitration. *See generally Christiansen v. Desert Rock Cap., Inc.*, No. 2:24-cv-00808, 2025 WL 1135598 (D. Utah Apr. 17, 2025). **This case serves as a straightforward reminder of the importance of including an arbitration provision that clearly delegates questions of arbitrability to the arbitrator and incorporates the American Arbitration Association (AAA) rules.**

In *Christiansen*, Plaintiff Christiansen applied for and was issued a loan from Defendant Desert Rock Capital, Inc. (“Desert Rock”). In the loan documents, Christiansen consented to be contacted by Desert Rock for “potential extensions of credit, marketing and advertisement, and any other business purpose.” *Id.* at *1. He also agreed to resolve “[a]ny and all controversies, claims, alleged breaches or disputes arising out of or relating in any way” to the loan documents through arbitration and to waive his ability to bring a class action. *Id.*

In the lawsuit, Christiansen alleged that Desert Rock called and texted him advertisements despite being on the national DNCR and despite his repeated DNC requests. Accordingly, he brought claims under the TCPA’s national DNCR and internal DNC provisions. In response, Desert Rock moved to dismiss the complaint or, alternatively, to stay the case and compel arbitration.

In deciding this motion, the Court first explained that it must enforce arbitration agreements according to their terms. And where there is “clear and unmistakable evidence” that the parties delegated the issue of arbitrability to the arbitrator, then it must be submitted to the arbitrator and is not for the court to decide. The Tenth Circuit has found this standard to be met where an arbitration agreement incorporates the AAA rules.

Although Christensen disputed the validity of the arbitration agreement and its applicability to the dispute, the Court rejected this argument because the loan documents explicitly referenced the AAA rules. Accordingly, the Court found the “clear and unmistakable” evidence standard to be met with respect to the issue of arbitrability.

And while Desert Rock sought dismissal of the complaint, the Court explained that “[w]hen a federal court finds that a dispute is subject to arbitration, and a party has requested a stay of the court proceedings pending arbitration, the court does not have discretion to dismiss the suit on the basis that all the claims are subject to arbitration.” *Id.* at *4 n.26 (quoting *Smith v. Spizzirri*, 601 U.S. 472, 475-76 (2024), and noting the Tenth and Seventh Circuits’ agreement). Per the Supreme Court’s instruction, the Court therefore stayed the case and compelled arbitration.

Until next time.

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