UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

AETNA HEALTH INC., et al., *Plaintiffs*, v. RADIOLOGY PARTNERS, INC., et al., *Defendants.*	CASE NO.: 3:24-CV-01343-BJD-LLL

DEFENDANTS' REPLY TO PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO COMPEL ARBITRATION AND MOTION TO STAY

For RP, Defendants' Motion to Compel Arbitration and Motion to Stay ("Motion to Compel Arbitration") [ECF No. 28] relies, in part, on the doctrine of equitable estoppel, to compel Aetna to arbitrate the counts in its Complaint arising out of or relating to the Contracted Period.

Aetna's opposition does not dispute that its lawsuit allegations have a significant relationship[1] to the Contract. Similarly, Aetna does not contest that its lawsuit allegations rely on the Contract and that Aetna alleged concerted misconduct by a non-signatory (RP) and another contract signatory (MBB), which are both circumstances where Florida law permits a non-signatory to invoke that equitable estoppel doctrine

[1] Aetna's Opposition failed to even attempt to distinguish the Florida Supreme Court's ruling in *Jackson v. Shakespeare Found., Inc.*, 108 So. 3d 587, 593 (Fla. 2013), which makes it clear that Aetna's claims have a "significant relationship" to the Contract, irrespective of whether the parties to the dispute have a contractual relationship, and irrespective of whether Aetna's claims are founded in tort or contract law. *See* Motion to Compel Arbitration at 14-15.

to compel arbitration. *See* Plaintiffs' Response in Opposition to Defendants' Motion to Compel Arbitration and to Stay ("Opp.") [ECF No. 48], pp. 7-11.

Instead, Aetna attempts to sidestep the application of equitable estoppel by arguing that doctrine is only available where "the scope of the arbitration provision covers the dispute," and that Aetna "never consented to arbitrate any disputes between it and [Radiology Partners] or any other non-signatory," citing cases involving much narrower arbitration clauses. *Id.* at pp. 3, 7. But the arbitration clause here is very broad, and does not limit its scope to the parties to the Contract, which Aetna ignores.

1. Aetna's Cases Are Distinguishable Because They Involve Arbitration Clauses Limiting the Scope to Disputes Between the Parties

Aetna cites cases with expressly limited arbitration provisions that are readily distinguishable from the arbitration provision here. For example, in *Kroma Makeup EU, LLC v. Boldfact Licensing + Branding, Inc.* ("*Kroma*"), the Eleventh Circuit confirmed that a non-signatory to an agreement can invoke equitable estoppel and compel arbitration "if her dispute with the signatory **falls within the scope of the arbitration clause**." 845 F.3d 1351 at 1355 (11th Cir. 2017) (emphasis added). However, unlike other equitable estoppel cases, the arbitration provision in that case explicitly stated that it was limited to "the disputes arising between them." *Id*. at 1353. By contrast, Aetna's arbitration clause has no such restriction.

The Eleventh Circuit further confirmed that equitable estoppel remains available for a non-signatory to compel arbitration absent language in the arbitration provision

limiting disputes to the contract signatories:

> If the parties had consented in the arbitration clause to arbitrate ***any disputes concerning the validity, interpretation, etc., of the contract***, **instead of consenting to arbitrate only "disputes arising between them"** (emphasis added, underlining in original) concerning the validity, interpretation, etc., of the contract, the [non-party] may have been able to use equitable estoppel to require [the plaintiff] to arbitrate the dispute between it and them.

Id. at 1356. By contrast, Aetna consented to arbitrate "[a]ny controversy or claim arising out of or relating to this Agreement," with no provision limiting it to disputes "between" the signatories. Declaration of Malea Reising ("Reising Decl.") [ECF No. 30], Ex. A at 12, Section 10.2.2. Aetna's opposition fails to address this key distinction between its arbitration clause versus the expressly limited provision in *Kroma*.

Aetna's other cites also are readily distinguishable for the same reason; namely, the arbitration provisions all expressly limited the disputes to ones between the contract signatories. *See It Works Mktg., Inc. v. Melaleuca, Inc.*, No. 8:20-CV-1743-T-KKM-TGW, 2021 WL 1650266 at *4 (M.D. Fla. Apr. 27, 2021) (the arbitration provision was explicitly limited to "dispute[s] between a Distributor [signatory] and It Works [signatory]."); *Beck Auto Sales*, *Inc. v. Asbury Jax Ford, LLC*, 249 So. 3d 765, 767 (Fla. 1st DCA 2018) (the arbitration provision was expressly limited to "all [d]isputes between the parties."). Here the arbitration provision lacks such a limit.

2. The Arbitration Section Covers Disputes Beyond the Contract Signatories

The arbitration provision here does not contain language providing that the arbitrable disputes are limited to "disputes arising between them," "disputes between

the parties," or "between the parties hereto," which is the type of limiting language that Aetna's Opposition cites. Multiple cases recognize that non-signatories can enforce an arbitration provision using the equitable estoppel doctrine when the provision lacks an express limitation to the signatories.[2]

Aetna's Opposition attempts to redraft the language of the arbitration provision to suggest a limitation not found there. *See* Opp. at pp. 7-11. The Court should not be misled by Aetna's misstatements about the provision, which broadly states:

> Any controversy or claim arising out of or relating to this Agreement or the breach, termination, or validity thereof, except for temporary preliminary, or permanent injunctive relief or any other form of equitable relief, shall be settled by binding arbitration administered by the American Arbitration Association ('AAA') and conducted by a sole arbitrator in accordance with the AAA's Commercial Arbitration Rules ('Rules'). . . . .

Declaration of Malea Reising ("Reising Decl.") [ECF No. 30], Ex. A at 12, Section 10.2.2 (emphasis added).[3]

Unlike in *Kroma*, there is no express language limiting the arbitrable controversies or claims arising out of or relating to this Agreement to disputes between the contract's signatories. The Court must enforce the arbitration provision as written, not rewrite it as Aetna advocates, to insert limitations not found in the document.

In an attempt to circumvent this hole, Aetna argues that term "party" appearing elsewhere means the Contract meant to expressly limit arbitration to the parties. Opp.

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[2] See Motion to Compel Arbitration at pp. 17-20.

[3] The arbitration clause expressly survived the Contract's termination. Reising Decl., Ex. A, § 11.4.

at pp. 8-9. But Aetna's argument fails for multiple reasons.

First, Section 10.2.2 only refers to a "party" for purposes of parties to the arbitration, not parties to the Contract, stating: "Except as may be required by law or to the extent necessary in connection with a judicial challenge or enforcement of an award, neither a party nor the arbitrator may disclose the existence, content, record or results of an arbitration." That is the sole reference to a "party" in Section 10.2.2 and does so only in the context of an arbitration proceeding, as shown by the reference to the arbitrator too. Thus, the reference to "party" in this context is a party to the arbitration, not a party to the contract. The one use of the word "party" in this section, with regards to the proceedings of the arbitration and the arbitration parties' obligations, highlights that the section does **not** limit the arbitrable disputes to disputes between the parties.

Second, the Contract does not define "party" or "parties." *See* Reising Decl., Ex. A; *see also* ECF No. 38-1 at 14-15. Moreover, the same word in a contract can have different meaning in different places, especially when lower case. For example, the Contract used the word "claim" in Section 3.4, titled Claims Submission, to refer to the medical bills MBB submits for services. By contrast, Section 10.2.2, titled Arbitration, which is the provision at issue here, uses the word "claim" to refer to a legal claim. There is nothing unique here about the same lower-case word having two different meanings in the same Contract, especially when addressing arbitration.

Finally, Aetna's argument that the arbitration provision should be harmonized to

contain an *implied* limitation to disputes between the contract parties is inconsistent with the case law governing equitable estoppel. As the Eleventh Circuit recognized in *Kroma*, equitable estoppel is available under a broad arbitration clause like the one here, in the absence of *express* language limiting the arbitrable disputes to the contracting parties. 845 F.3d at 1356. Aetna's contrary argument seeking to *imply* unwritten limitations would effectively nullify the equitable estoppel doctrine altogether, by permitting courts to rewrite contracts to have limitations *Kroma* confirms must be expressly stated.

3. Aetna's Allegations That RP Was MBB's Principal, Exercised Rights, and Gained Benefits from The Contract, Each Make RP a Party for Purpose of Equitable Estoppel

Aetna's Opposition disputes that RP was MBB's agent, and instead, argues that RP was MBB's "principal," and controlled and acted on behalf of MBB, by installing RP corporate officers as MBB corporate officers. Opp. at 12. This is a distinction without a difference, and Aetna cites no law as to *why* a principal would stand in a different posture than an agent for equitable estoppel, or agency, purposes.

But even if Aetna had been correct on which is principal versus agent, Aetna's allegations still make RP a "party" under Florida law for purposes of RP using equitable estoppel to compel arbitration. Aetna's allegations include asserting that RP acted on MBB's behalf and that RP "takes all residual benefits and bears all residual losses from [MBB's] operations," makes RP a "party" to the arbitration provision under Florida law. *See Koechli v. BIP Int'l, Inc.,* 870 So. 2d 940, 945-46 (Fla. 1st DCA 2004) (for

purposes of arbitration provision requiring arbitration "of any dispute between the parties," non-signatory agents were considered to be parties to the arbitration provision because they "received rights and assumed obligations under the refurbishment agreement and the claims against them arose from actions in their capacity as agents or an officer of… a signatory under the agreement").

For all the reasons set forth in the moving papers, arbitration of Aetna's claims is required, and Defendants' Motion to Compel Arbitration and Motion to Stay should be granted. Nothing in Aetna's Opposition overcomes this outcome.

Respectfully submitted this 2nd day of May, 2025.

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