

<b>Delucca v Hayfin Capital Mgt. LLC</b>
2022 NY Slip Op 32151(U)
July 7, 2022
Supreme Court, New York County
Docket Number: Index No. 154424/2021
Judge: William Perry
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

PRESENT: HON. WILLIAM PERRY PART 23

*Justice*

-----X

JOYCE DELUCCA

Plaintiff,

- v -

HAYFIN CAPITAL MANAGEMENT LLC,

Defendant.

-----X

INDEX NO. 154424/2021

MOTION DATE 10/15/2021

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17

were read on this motion to/for COMPEL ARBITRATION.

Upon the foregoing documents, defendant Hayfin Capital Management LLC ‘s (“Hayfin”), motion sequence number 001, seeking an order to compel plaintiff to arbitrate all claims alleged in the Amended Complaint dated and filed June 30, 2021, and staying the proceedings herein, pursuant to CPLR 2201 and 7503(a) and the Federal Arbitration Act (“FAA”), 9 U.S.C. §§ 3, 4, is granted.

Plaintiff signed an offer of employment and agreed to the terms therein, including the terms set forth in Appendix A, entitled “Hayfin Group Employee Confidentiality and Non-Solicitation Agreement”. (NYSCEF Doc. No. 9, Appendix A). The agreement contains a broad arbitration clause which provides that: “Except as provided in Paragraph 11 of this Agreement, any dispute arising between the Employee and the Company and/or Hayfin (collectively, the “Parties” and each a “Party”) under this Agreement, under Employee’s offer letter, under any statute, regulation, or ordinance, under any other agreement between the Parties, and/or in any way relating to Employee’s employment, shall be submitted to binding arbitration before the

American Arbitration Association (the “AAA”) for resolution.” (NYSCEF Doc. No. 9, para. 12).

Plaintiff recognizes and readily admits that CPLR 7515, which bars mandatory arbitration of discrimination claims only prospectively (CPLR 7515[b][i]), and post-dates the arbitration agreement herein, does not require invalidation of the arbitration provision contained in Appendix A. (NYSCEF Doc. No. 16, p. 8); (see *Altman v Salem Media of N.Y., LLC*, 188 AD3d 515, 516, 132 N.Y.S.3d 606 [1st Dept 2020][“Because plaintiff’s employment agreement predated the enactment of CPLR 7515, which provides that the statute applies only to contracts entered into ‘on or after the effective date of this section,’ the statute’s prohibition of agreements compelling arbitration of discrimination claims is inapplicable to this case”]). Rather, plaintiff contends that the terms of the arbitration clause are unenforceable due to the terms of the Confidentiality Agreement which she claims prohibit her from communicating with third parties, the details surrounding the claims alleged in the Amended Complaint. (NYSCEF Doc. No. 16). Plaintiff’s claims lack merit.

It is well settled that “New York ‘favors and encourages arbitration as a means of conserving the time and resources of the courts and the contracting parties’”. (See, *Smith Barney Shearson Inc. v. Sacharow*, 91 NY2d 39, 49-50, 689 N.E.2d 884, 666 N.Y.S.2d 990 [1997]). New York courts also favor a broad reading of arbitration agreements and when parties to a contract agree, as they did here, the court should give effect to their intention. (see *Altman v Salem Media of N.Y., LLC*, 188 AD3d 515, 516, 132 N.Y.S.3d 606 [1st Dept 2020]).

Likewise, under the Federal Arbitration Act, which governs plaintiff’s agreement to arbitrate here, any ‘questions of arbitrability must be addressed with a healthy regard for the federal policy ... [and] any doubts concerning the scope of arbitrable issues should be resolved in

favor of arbitration' (*Singer v. Jefferies & Co., Inc.* 78 NY2d 76, 81-82, 575 N.E.2d 98, 571 N.Y.S.2d 680 [1991]).

The record establishes that plaintiff entered into the agreement containing the arbitration provision in 2018 in connection with her employment as a Hayfin executive after selling her business to Hayfin. (NYSCEF Doc. Nos 9, 10, 11). A review of the documents demonstrates that the "prototypical broad arbitration provision" contained in the agreement applies to the claims asserted by plaintiff and must be enforced as intended by the parties' written agreements, which agreements were the result of negotiated terms between sophisticated parties represented by counsel. (See, e.g., *Oldroyd v Elmira Sav. Bank, FSB*, 134 F3d 72, 76 [2d Cir 1998] [where an arbitration agreement covered "any dispute, controversy or claim arising under or in connection with" plaintiff's employment agreement, holding that "this is precisely the kind of broad arbitration clause that justifies a presumption of arbitrability"]; *Collins & Aikman Prods. Co. v Building Sys.*, 58 F3d 16, 20 [2d Cir 1995] [holding that a clause "submitting to arbitration '[a]ny claim or controversy arising out of or relating to the agreement,' is the paradigm of a broad clause"]).

Plaintiff's claims asserted in the amended complaint and her contention that the terms of the negotiated confidentiality agreement are too broad, must be resolved through arbitration. In that forum, the arbitrator while adjudicating the underlying arbitrable claims can similarly adjudicate and resolve any challenges to the scope of the confidentiality clause at issue. (See, e.g., *Am. Family Life Assurance Co. of New York v. Baker*, 778 F. App'x 24, 28 (2d Cir. 2019); quoting, *Kopple v. Stonebrook Fund Mgmt., LLC*, 21 Misc. 3d 1144[A], 875 N.Y.S.2d 821, 2004 NY Slip Op 51948[U] [N.Y. Sup. Ct. 2004], aff'd, 18 A.D.3d 329, 794 N.Y.S.2d 648 [1st Dep't

2005] ["While the clause requires that arbitrations 'be conducted on a strictly confidential basis[,] it in no way inhibits a party from preparing his case."] (internal citations omitted)].


Accordingly, the court finds that plaintiff must arbitrate her claims against defendant Hayfin pursuant to the arbitration provision contained in the agreement. Thus, it is hereby

ORDERED that defendant’s motion to compel arbitration and to stay this action is granted; and it is further

ORDERED that plaintiff Joyce DeLucca shall arbitrate her claims against defendant Hayfin Capital Management LLC in accordance with the contract; and it is further

ORDERED that all proceedings in this action are hereby stayed, except for an application to vacate or modify said stay; and it is further

ORDERED that either party may make an application by order to show cause to vacate or modify this stay upon the final determination of the arbitration.

7/7/2022					
DATE			WILLIAM PERRY, J.S.C.		
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE