

Webb v Emerald Group Holdings LLC

2026 NY Slip Op 31755(U)

April 22, 2026

Supreme Court, New York County

Docket Number: Index No. 659827/2025

Judge: Judy H. Kim

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JUDY H. KIM PART 04

Justice

-----X

JOHN WEBB,

Plaintiff,

- v -

EMERALD GROUP HOLDINGS LLC,

Defendant.

-----X

INDEX NO. 659827/2025

MOTION DATE 01/12/2026, 12/20/2025

MOTION SEQ. NO. 001 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 23, 24, 25, 26, 27, 28, 29, 30, 31, 36, 37, 38, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53

were read on this motion to/for STAY

The following e-filed documents, listed by NYSCEF document number (Motion 002) 5, 6, 7, 8, 9, 10, 22, 32, 33, 34, 35, 40, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63

were read on this motion to/for STAY

Upon the foregoing documents, plaintiff's motions to stay the arbitration entitled Emerald Group Holdings LLC d/b/a Vitalcap v RP Palm Beach, LLC and Von Esselborn, Inc. and Willisville Corporation d/b/a Roxy's Pub and John Webb, Resolute Systems Case No.: 6339207, is denied and defendant's cross-motion to dismiss this action is granted.

On or about September 4, 2025, defendant entered into a Standard Merchant Cash Advance Agreement (the "Agreement") with "RP Palm Beach, LLC/Von Esselbron, Inc/Wallisville Corporation" d/b/a Roxy's Pub (defined therein, collectively, as "Merchant") in which defendant purchased \$136,320.00 of the Merchant's future receivables for \$96,000.00 (NYSCEF Doc No. 2, merchant agreement). The Agreement was guaranteed by plaintiff John Webb (id. at 14). Both the Agreement and Webb's guarantee included arbitration provisions. Specifically, the Agreement provided that

ANY ACTION OR DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, LAW, EQUITY, OR OTHERWISE, RELATING TO THIS AGREEMENT OR INVOLVING FUNDER ON ONE SIDE AND ANY MERCHANT ON THE OTHER, INCLUDING, BUT NOT LIMITED TO ISSUES OF ARBITRABILITY, AND INCLUDING, WITHOUT LIMITATION, ANY ACTION OR DISPUTE THAT PREDATES THIS AGREEMENT, WILL, AT THE OPTION OF ANY PARTY TO SUCH ACTION OR DISPUTE, BE DETERMINED BY ARBITRATION IN THE STATE OF NEW YORK [...]

(id. at §42 [emphasis added]). The Guaranty has similar language, providing that:

ANY ACTION OR DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, LAW, EQUITY, OR OTHERWISE, RELATING TO THE AGREEMENT, THIS GUARANTEE, OR INVOLVING FUNDER ON ONE SIDE AND ANY MERCHANT OR ANY GUARANTOR ON THE OTHER, INCLUDING, BUT NOT LIMITED TO ISSUES OF ARBITRABILITY, AND INCLUDING, WITHOUT LIMITATION, ANY ACTION OR DISPUTE THAT PREDATES THIS GUARANTEE, WILL, AT THE OPTION OF ANY PARTY TO SUCH ACTION OR DISPUTE, BE DETERMINED BY ARBITRATION IN THE STATE OF NEW YORK [...]

(id. at §G17 [emphasis added]).

On November 18, 2025, plaintiff commenced this action. In his Second Amended Complaint, plaintiff seeks a declaratory judgment that, in sum and substance, the Agreement is unenforceable as against Von Esselborn, Inc. and Wallisville Corporation and the Guarantee is unenforceable against John Webb, for various reasons (NYSCEF Doc No. 41). On or about December 16, 2025, Emerald served plaintiff with a Notice and Demand to Arbitrate plaintiff's alleged non-payment under the Agreement and Guaranty. Plaintiff now moves to stay that arbitration. Plaintiff's motions are denied.

Contrary to plaintiff's arguments, the clear language of the Agreement and Guaranty require that "the scope and validity of the parties' arbitration agreement, including issues of arbitrability, are for the arbitration tribunal to determine" (*Life Receivables Trust v Goshawk*

Syndicate 102 at Lloyd's, 14 NY3d 850, 851 [2010]). As such, the arguments raised by plaintiff in his complaint and in opposition to this motion are properly raised in the arbitration.

Finally, as the arbitration provisions in the Agreement and Guaranty require that “all of the issues raised in the Complaint must be submitted to arbitration,” no issues remain to be determined here and defendant’s cross-motion to dismiss this action pursuant to CPLR 3211(a)(1) is granted (*Republic Mtge. Ins. Co. v Countrywide Fin. Corp.*, 28 Misc. 3d 1214(A) [Sup Ct, NY County 2010] *affd Republic Mortg. Ins. Co. v Countrywide Fin. Corp.*, 87 AD3d 457, 460 [1st Dept 2011]).

Accordingly, it is

ORDERED that plaintiff’s motions to stay the arbitration entitled *Emerald Group Holdings LLC d/b/a Vitalcap v RP Palm Beach, LLC and Von Esselborn, Inc. and Willsiville Corporation d/b/a Roxy’s Pub and John Webb*, Resolute Systems Case No.: 6339207, are denied; and it is further

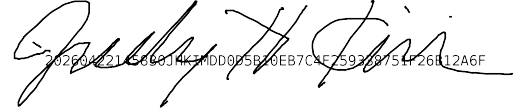
ORDERED that defendant’s cross-motion to dismiss this action is granted and it is hereby dismissed; and it is further

ORDERED that counsel for defendant shall serve a copy of this decision and order, with notice of entry on plaintiff and the Clerk of the Court within ten days of the date of this order; and it is further

ORDERED that service upon the Clerk shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the “E-Filing” page on the court's website); and it is further

ORDERED that the Clerk is directed to enter judgment accordingly.

This constitutes the decision and order of the Court.



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4/22/2026

DATE

HON. JUDY H. KIM, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE