PARTIES/ATTORNEYS

Plaintiff	Silvia Martinez-De Jesus	John G. Yslas Fawn F. Bekam Wilshire Law Firm
Defendant	7REDZ, LLC DBA CHICK-FIL-A	Joseph W. Rose Mehran Tahoori Rose Law, APC

TENTATIVE RULING

For all the reasons discussed below, the court finds the Agreement at issue to be permeated with an intermediate degree of procedural unconscionability and an intermediate degree of substantive unconscionability. The court thus finds the Agreement to be unconscionable and unenforceable. The court denies the request for severance. The motion to compel arbitration is denied.

According to the first amended complaint, plaintiff Silvia Martinez-De Jesus worked for defendant 7Redz, LLC dba Chick-fil A (7Redz) as an hourly-paid, non-exempt employee from approximately November 2022 to approximately October 2024. She filed her complaint on October 23, 2024, alleging the following causes of action on behalf of herself individually and as a class action on behalf of herself and current and former employees of defendant who have been employed by defendant in California as an hourly-paid or non-exempt employee during the statute of limitations period applicable to the claims pleaded: (1) Failure to Pay Minimum and Straight Time Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, 1197, and 1197.1); (2) Failure to Pay Overtime Wages (Cal. Lab. Code §§ 1194 and 1198); (3) Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512); (4) Failure to Authorize and Permit Rest Periods (Cal. Lab. Code §§ 226.7); (5) Failure to Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203); (6) Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226); (7) Failure to Indemnify Employees for Expenditures (Cal. Lab. Code § 2802); and (8) Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, et seq.). On January 10, 2025, plaintiff amended her complaint to add a ninth cause of action for Civil Penalties Under PAGA (Cal. Lab. Code §§ 2698, et seq.).

On December 30, 2024, defendant filed a motion to compel arbitration. On January 29, 2025, plaintiff filed opposition, asserting the arbitration agreement was unconscionable. Reply has been filed.

Existence of Agreement

Code of Civil Procedure section 1281.2 provides that a court "shall order the petitioner and the respondent to arbitrate a controversy if it determines that an agreement to arbitrate the controversy exists, unless it determines that (a) the right to compel arbitration has been waived by the petitioner . . . ." As our high court has explained, whether the arbitration is governed by the Federal Arbitration Act (FAA) or the California Arbitration Act (CAA), "when a petition to compel arbitration is filed and accompanied by prima facie evidence of a written agreement to arbitrate the controversy, the court itself must determine whether the agreement exists and, if any defense to enforcement is raised, whether it is enforceable. Because the existence of the agreement is a statutory prerequisite to granting the petition, the petitioner bears the burden of proving its existence by a preponderance of the evidence. If the party opposing the petition raises a defense to enforcement—either fraud in the execution voiding the agreement, or a statutory defense of waiver or revocation (see [Code Civ. Proc.,] § 1281.2, subds. (a) & (b))—that party bears the burden of producing evidence of, and proving by a preponderance of the evidence, any fact necessary to the defense." (*Rosenthal* v. *Great Western Fin. Securities Corp.* (1996) 14 Cal.4th 394, 413; see also *Engalla v. Permanente Medical Group, Inc.* (1997) 15 Cal.4th 951. 972-976 [opposing party has burden to show a defense, such as waiver, by a preponderance of evidence].)

Whether an agreement to arbitrate exists is analyzed on state law principles. (*First Options of Chicago, Inc. v. Kaplan* (1995) 514 U.S. 938; *Peleg v. Neiman Marcus Group, Inc.* (2012) 204 Cal.App.4th 1425, 1466—the FAA relies on state-law contract principles in determining whether an arbitration agreement exists.) The initial burden is on the party petitioning to compel arbitration to prove the existence of the agreement by a preponderance of the evidence. (*Rosenthal v. Great Western Fin. Securities Corp.* (1996) 14 Cal.4th 394, 413; *Villacreses v. Molinari* (2005) 132 Cal.App.4th 1223, 1230.) By attaching a copy of the agreement to its petition, defendant may satisfy the initial burden of establishing the existence of an arbitration agreement. (*Condee v. Longwood Management Corp*. (2001) 88 Cal.App.4th 215, 217–219.)

Here, defendant has submitted the Mutual Agreement to Arbitrate Claims. (Decl. of Maggie Cital, Exh. A.) Maggie Cital, human resources administrator for 7Redz, states that she met with all of 7Redz's employes including Ms. Martinez-De Jesus, to provide each of them with 7Redz's Mutual Agreement to Arbitrate Claims and Class Action Waiver, review it with each of them, and request their dated signature signifying their agreement to resolve employment disputes individually, one-on-one, through private arbitration under the Federal Arbitration Act, and to be

bound by all the terms of that agreement. Plaintiff signed the Agreement in her presence. (Cital Decl., ¶ 5.)

Plaintiff does not deny the existence of the Agreement, but argues it is unconscionable. Arbitration may be refused where grounds exist for revocation or rescission of the agreement to arbitrate under state law. (9 USC § 2—"grounds as exist at law or in equity for the revocation of any contract"; Code Civ. Proc. § 1281—"grounds as exist for rescission of any contract.") Plaintiff argues the Agreement is not enforceable because it is unconscionable.[1]

Unconscionability

Unconscionability as it pertains to contracts has both a procedural and substantive element. The prevailing view is that procedural and substantive unconscionability must both be present in order for a court to exercise its discretion to refuse to enforce a contract or clause under the doctrine of unconscionability. But they need not be present in the same degree. Essentially a sliding scale is invoked which disregards the regularity of the procedural process of the contract formation, that creates the terms, in proportion to the greater harshness or unreasonableness of the substantive terms themselves. In other words, the more substantively oppressive the contract term, the less evidence of procedural unconscionability is required to come to the conclusion that the term is unenforceable, and vice versa. (*Armendariz v. Foundation Health Psychcare Services* (2000) 24 Cal.4th 83, 114, 119; see also *Harper v. Ultimo* (2003) 113 Cal.App.4th 1402, 1406–1407 ["There is a sliding scale where the greater the evidence of procedural unconscionability, the less evidence is needed of substantive unconscionability"].) Plaintiff has the burden to prove both procedural and substantive unconscionability. The greater the evidence there is of one of these, the less is required of the other. (*Crippen v. Central Valley RV Outlet, Inc.* (2004) 124 Cal.App.4th 1159, 1165.) The burden of proving unconscionability rests upon the party asserting it. (*OTO, L.L.C. v. Kho* (2019) 8 Cal.5th 111, 126.)

a. Procedural Unconscionability

[1] In the employment context, there is an additional consideration of fairness. (*Armendariz v. Foundation Health Psychcare Services, Inc*. (2000) 24 Cal.4th 83, 103, 106, 113.) The following requirements must be shown before an arbitration agreement in the employment context is enforceable: (1) the arbitration agreement may not limit damages normally available under the statutes; (2) there must be discovery "sufficient to adequately arbitrate their statutory claim; (3) there must be a written arbitration decision and judicial review "sufficient to ensure the arbitrators comply with the requirements of the statute"; and (4) the employer must "pay all types of costs that are unique to arbitration." (*Armendariz v. Foundation Health Psychcare Services, Inc*. (2000) 24 Cal.4th 83, 103, 106, 113.) This inquiry is distinct from an unconscionability determination. (*Ramirez v. Charter Communications, Inc.* (2024) 16 Cal.5th 478, 504, fn. 7 [the two inquiries are distinct].) Neither party has engaged in this analysis. However, since the court finds the Agreement to be unconscionable and unenforceable, the fairness inquiry is unnecessary.

Procedural unconscionability pertains to the making of an agreement and requires oppression or surprise, usually as a contract of adhesion. (*Magno v. The College Network, Inc.* (2016) 1 Cal.App.5th 277, 285; see *Engalla v. Permanente Medical Group, Inc.* (1997) 15 Cal.4th 951, 9843 ["[i]n determining whether a contract term is unconscionable, we first consider whether the contract ... was one of adhesion"].) The 'oppression' component arises from an inequality of bargaining power of the parties to the contract and an absence of real negotiation or a meaningful choice on the part of the weaker party. The circumstances relevant to establishing oppression include, but are not limited to (1) the amount of time the party is given to consider the proposed contract; (2) the amount and type of pressure exerted on the party to sign the proposed contract; (3) the length of the proposed contract and the length and complexity of the challenged provision; (4) the education and experience of the party; and (5) whether the party's review of the proposed contract was aided by an attorney." (*Grand Prospect Partners, L.P. v. Ross Dress for Less, Inc.* (2015) 232 Cal.App.4th 1332, 1348.) Surprise is defined as "the extent to which the supposedly agreed-upon terms of the bargain are hidden in the prolix printed form drafted by the party seeking to enforce the disputed terms." (*Lennar Homes of California, Inc. v. Stephens* (2014) 232 Cal.App.4th 673, 688.)

The Cal. Supreme Court has identified the degrees of procedural unconscionability as follows: "At one end of the spectrum are contracts that have been freely negotiated by roughly equal parties, in which there is no procedural unconscionability. ... Contracts of adhesion that involve surprise or other sharp practices lie on the other end of the spectrum. Ordinary contracts of adhesion, although they are indispensable facts of modern life that are generally enforced, contain a degree of procedural unconscionability even without any notable surprises, and bear within them the clear danger of oppression and overreaching. (*Ramirez v. Charter Communications, Inc.* (2024) 16 Cal.5th 478, 493–494.)

Plaintiff argues that the Agreement is a pre-printed, standardized contract of adhesion executed as a condition of employment because it was non-negotiable, solely drafted by defendant, and presented to an unsophisticated 19-year-old employee. Plaintiff also argues there is no evidence to suggest that plaintiff could either reject or negotiate the terms of the pre-printed Agreement. In fact, plaintiff states: "In or around May 2024, a woman who worked in human resources approached me at work and told me that I needed to sign the Mutual Agreement to Arbitrate Claims form in order to continue working. I understood that I had to sign the document to continue working for Defendant. [¶] At no point was I ever given the opportunity to negotiate or change the terms of the document that I was required to sign. At the time, I was 19 years old." (Martinez de Jesus Decl., ¶¶4-5.) In response, Ms. Cital states: "I never presented the Agreement to Ms. Martinez-De Jesus as a "mandatory" condition of employment, and she had the option to decline it. I never threatened Ms. Martinez-De Jesus with discharge from employment or

any penalty if she declined to sign the Agreement." (Cital Decl., ¶ 7.) She states that in fact, at least two 7Redz employees have declines to sign the Agreement and they were not terminated or disciplined as a result. (Cital Decl, ¶8.) However, while she denies having presented the Agreement as a condition of employment, she does not indicate that she told plaintiff that it was *not* a condition of employment. Instead, she met with plaintiff at a table in the restaurant during plaintiff's shift, presented her with the document stating "This is our arbitration agreement" or words to that effect, and asked plaintiff is she had any questions. At that point, plaintiff said she had no questions and signed the Agreement. (Cital Decl., ¶¶ 4-5.)

The court finds there is at least a low level of procedural unconscionability present in these circumstances. The inequality in bargaining power between the low-wage employees and their employer makes it likely that the employees feel at least some pressure to sign the arbitration agreement. (*Sanchez v. Western Pizza Enterprises, Inc.* (2009) 172 Cal.App.4th 154, 174, abrogated on other grounds, see *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 366, 173 Cal.Rptr.3d 289, 327 P.3d 129.) This represents a contract of adhesion. Adhesion alone, however, only indicates a low degree of procedural unconscionability. (*Ramirez, supra*, 16 Cal.5th at p. 494.) To establish a high degree of procedural unconscionability, the party asserting the defense must show oppression or surprise. (*OTO, L.L.C. v. Kho* (2019) 8 Cal.5th 111, 126.) Plaintiff has done so here, as explained in footnote 1.

Substantive Unconscionability

As noted above, both procedural and substantive unconscionability must be present for a court to exercise its discretion to refuse to enforce a contract or clause. (*Armendariz, supra*, 24 Cal.4th at 114.) "(T)he more substantively oppressive the contract term, the less evidence of procedural unconscionability is required to come to the conclusion that the term is unenforceable, and vice versa." (*Id.*; *Mercuro v. Sup.Ct. (Countrywide Secur. Corp.)* (2002) 96 Cal.App.4th 167, 174-175—given employer's highly oppressive conduct in obtaining employee's consent to arbitration agreement, employee was required to make only minimal showing of substantive unconscionability.)

Unconscionability is not synonymous with making a bad bargain. (*Sanchez v. Valencia Holding Co., LLC* (2015) 61 Cal.4th 899, 912.) Instead, contracts are substantively unconscionable where they impose terms that are overly harsh or one-sided. (*Id.* at p. 910.) "The ultimate issue in every case is whether the terms of the contract are sufficiently unfair, in view of all relevant circumstances, that a court should withhold enforcement." (*Sanchez* at 912) Put another way, an arbitration provision is substantively unconscionable when the terms are unreasonably favorable to the more powerful party. (*Id.* at p. 911.) The paramount consideration is mutuality. (*Nyulassy v. Lockheed Martin Corp.* (2004) 120 Cal.App.4th 1267,

1287.) In evaluating the substantive terms of an arbitration agreement, a court applying the unconscionability doctrine must consider not only what features of dispute resolution the agreement eliminates but also what features it contemplates. (*Sonic-Calabasas A, Inc. v. Moreno* (2013) 57 Cal.4th 1109, 1146.)

Here, plaintiff identifies several points in the Agreement that it asserts are substantively unconscionable, asserting that the "Court need not look further than the Second District Court of Appeal's decision in *Cook v. University of Southern California*, 102 Cal.App.5th 312 (2024)." The court will consider each basis separately.

1. Scope

A detailed discussion of *Cook* is useful. In *Cook*, plaintiff was an employee of the University of Southern California. She signed an arbitration agreement that required the arbitration of "all claims, whether or not arising out of Employee's University employment, remuneration or termination, that Employee may have against the University or any of its related entities, including but not limited to faculty practice plans, or its or their officers, trustees, administrators, employees or agents, in their capacity as such or otherwise; and all claims that the University may have against Employee." The court held that plain language of the agreement required Cook to arbitrate claims that are *unrelated* to her employment with USC, which is unconscionable. It observed: "It is difficult to see how it is justified to expect Cook—as a condition of her employment at the university—to give up the right to ever sue a USC employee in court for defamatory statements or other claims that are completely unrelated to Cook's employment." (*Cook, supra,* 102 Cal.App.5th at 325.)

Here, the Agreement requires arbitration of "all controversies, claims or disputes ('claims'), past, present or future, whether or not arising out of my employment (or its termination). . ." (Cital Decl., Exh. A, p. 1, "Claims Covered by the Agreement.") Plaintiff points out this means that "if Plaintiff ever enters Defendant's restaurant and slips and falls, her claims would be subject to arbitration under the [Agreement]. If Plaintiff is ever in a fender bender with a car driven by one of Defendant's employees, her claims would be subject to arbitration under the [Agreement]."

Defendant argues these examples would not result in arbitration because the express terms of the Agreement excludes "claims for worker's compensation benefits." (Cital Decl., Exh. A, p. 1, Claims Covered by the Agreement.) But this response seems to prove plaintiff's point. To be eligible for worker's compensation, the employee must be performing service related to and within the course and scope of employment. (See Lab. Code, § 3600, subd. (a).) If she entered the restaurant as a

customer (either during her employment or after its termination) and slips and falls, she would be required to arbitrate the claim under the Agreement.

Defendant argues that *Cook* is distinguishable because of the size of USC as an employer and entity, which results in a much broader scope of potential claims that may be subject to arbitration than at issue here. Defendant presents evidence from Joey Hickox, the sole officer, director, member and managing member of 7Redz, which operates the Chick-fil-A franchise at issue. (Hickox Decl, ¶¶ 1-4.) Chick-fil-A does not control 7Redz employment policies, nor does it control plaintiff's employment. (*Id.,* ¶ 4.) Defendants argue: "Hence, unlike the tens of thousands of USC persons and USC entities involving the agreement in Cook, there is a high degree of mutuality and reciprocity across the 7Redz workforce for fair, neutral, individual alternative dispute resolution under the JAMS Employment Rules and Procedures." (Reply, p. 8, ll. 4-7.) However, there is nothing in the *Cook* opinion that suggests the size of the employer was dispositive in reaching its determination. Rather, it was the breadth of the agreement itself, and extension to matters unrelated to employment. The court is thus persuaded the addition of claims unrelated to employment to the Agreement at issue is substantively unconscionable, as it is impermissibly one-sided.

2. Duration

The Agreement applies to claims "past, present or future.[]" (Cital Del., Exh. A, p. 1, Claims Covered by Agreement.) It further expressly states that it "shall survive the termination of [Plaintiff]'s employment and the expiration of any benefit plan." (Cital Del., Exh. A, p. 3, Survival of Agreement.) Plaintiff argues that these provisions make the Agreement of indefinite duration and thus substantively unconscionable pursuant to *Cook*. (*Cook, supra,* 102 Cal.App.5th at 325-326.) Defendant argues that the term at issue here is terminable at will, and thus not substantively unconscionable.

Arbitration agreements that do not specify a term of duration are terminable at will after a reasonable time has elapsed. (*Reigelsperger v. Siller* (2007) 40 Cal.4th 574, 576; see *Consolidated Theatres, Inc. v. Theatrical Stage Employees Union* (1968) 69 Cal.2d 713, 727–728; *Zee Medical Distributor Assn., Inc. v. Zee Medical, Inc.* (2000) 80 Cal.App.4th 1, 10.) *Zee Medical Distributor Association, Inc. v. Zee Medical, Inc.* (2000) 80 Cal.App.4th 1 is instructive. In that case, a medical distributor association sued a provider of occupational first aid and safety products and services, seeking a declaration that its distributorship agreements were terminable at any time with reasonable notice. The court held that the plain, unambiguous language of the distribution agreements, stating that they "shall continue" until the grounds for termination as specified in the contract arose, was a valid, express contractual term of duration. The *Zee* court reached this decision based on a three-step analysis of the contractual terms: (1) The court first seeks an

express term; (2) If one is absent, the court determines whether one can be implied from the nature and circumstances of the contract; (3) If neither an express nor an implied term can be found, the court will generally construe the contract as terminable at will. (*Id*. at p. 727 citing *Consolidated Theatres, Inc. v. Theatrical Stage Employees Union* (1968) 69 Cal.2d 713, 727.)

Under this analysis, the *Cook* court found the arbitration agreement in that case specified it would survive the employee's termination and until it was revoked in writing signed by the President of the University: "The arbitration agreement specifically provides that it will survive unless and until Cook and USC's president specifically terminate the agreement in a writing, signed by both parties . . . . [T]his is an express term of duration; thus [the arbitration agreement is not terminable at will]." (*Cook, supra,* 102 Cal.App.5th at 326.).) The *Cook* court also observed that the presence of such language shows the parties did not contemplate that the agreement would be terminable at will. (*Id.*) The relevance of these conclusions is that the arbitration agreement was of indefinite duration and thus substantively unconscionable.

Defendant argues the term at issue here is more like the one examined in *Reigelsperger v. Siller* (2007) 40 Cal.4th 574. In *Reigelsperger*, the court considered whether an arbitration agreement, signed when a chiropractor first treated a patient, applied to a medical malpractice claim by that patient arising from treatment performed two years later for a different condition. (*Reigelsperger, supra*, 40 Cal.4th at p. 576.) Based on language in the arbitration agreement stating that it intended to bind the patient and health care provider " 'who now or in the future treat[s] the patient [,]' " the Cal. Supreme Court held the arbitration agreement was enforceable and required arbitration of the malpractice claim arising from the later treatment. (*Ibid*.) In reaching that conclusion, it observed that the Court of Appeal held that the phrase "now or in the future treat[s]" "cannot reasonably be construed to bind the parties in perpetuity...." The Court stated: "The answer to this objection is that, like other contracts, arbitration agreements that do not specify a term of duration are terminable at will after a reasonable time has elapsed. (*Consolidated Theatres, Inc. v. Theatrical Stage Employees Union* (1968) 69 Cal.2d 713, 727–728, 73 Cal.Rptr. 213, 447 P.2d 325; *Zee Medical Distributor Assn., Inc. v. Zee Medical, Inc.* (2000) 80 Cal.App.4th 1, 10, 94 Cal.Rptr.2d 829.) Reigelsperger did not try to terminate the arbitration agreement." (*Id.*) The Cal. Supreme Court thus implied that the agreement at issue did not contain an express term of duration.

Here, the contract specifies that it shall survive termination of plaintiff's employment and the expiration of any benefit plan. (Cital Del., Exh. A, p. 3, Survival of Agreement.) This is similar to the provision in *Reigelsperber* (covering a term for treatment provided "now or in the future"), as neither contain a method of recission or modification. The agreement in *Cook,* on the other hand, provided for a method of termination at the discretion of the USC's President. Because the

Agreement at issue has no specified method of recission or modification, the arbitration provision is thus terminable at will after a reasonable time. Consequently, it is not of indefinite duration and therefore it is not substantively unconscionable.[2]

3. Mutuality

The Agreement provides "The Company and I mutually consent to resolve by arbitration . . . all controversies, claims, or disputes ("claims"). . . that the Company may have against me or that I (and no other party) may have against any of the following: (1) the Company, (2) its officers, directors, employees or agents in their capacity as such or otherwise, (3) the Company's parent, subsidiary and affiliated entities, (4) the Company's benefit plans or the plans' sponsors, fiduciaries, administrators, affiliates and agents, a (sic) and/or (5) all successors and assigns of any of them." (Cital Decl., Exh. A, p. 1, Claims Covered by Agreement.) "Company" is defined as "7Redz LLC doing business as Chick-fil-A Enos Ranch (and/or any subsidiary or affiliated company for which I work (collectively, "the Company")." (Cital Decl., Exh. A, p. 1, Mutual Agreement to Arbitrate Claims.)

In *Cook,* the agreement required Cook to arbitrate any and all claims she may have against USC "or any of its related entities, including but not limited to faculty practice plans, or its or their officers, trustees, administrators, employees or agents, in their capacity as such or otherwise." However, the agreement did not require USC's "related entities" to arbitrate their claims against Cook. The *Cook* court observed: "This confers a benefit on USC and its broadly-defined "related entities" that is not mutually afforded to Cook." Thus, the court found the arbitration was substantively unconscionable for lack of mutuality. (*Id*. at 328.)

Although defendant presented evidence that there are, in fact, no other related entities, the court is not persuaded this resolves the lack of mutuality issue. Instead, the court finds that defendant, included a provision in the Agreement that it admits it did not need, which suggests a concentrated effort to afford defendant with every possibly benefit. The court finds the Agreement here is similarly one-sided, and without any showing of justification by 7Redz, the Agreement is substantively unconscionable due to lack of mutuality.

Summary of Conclusions re Unconscionability

[2] This interpretation arguably makes the termination provision a surprise of the sort contemplated by procedural unconscionability, as the plain language of the Agreement suggests one thing (e.g., that the Agreement continues in perpetuity), but the rules of contractual interpretation dictate another result. The degree of procedural unconscionability is thus increased to intermediate.

The court finds there is at least a low level of procedural unconscionability present in these circumstances based on the inequality in bargaining power between the low-wage employees and their employer. This finding is elevated by the surprise contained in the termination provision of the Agreement, which holds a meaning contradicted by its plain language.

The court finds the both the scope and mutuality provisions in the Agreement to be substantively unconscionable to an intermediate degree.

The court finds this Agreement is thus unconscionable and unenforceable.

Severability

Courts may liberally sever any unconscionable portion of a contract and enforce the rest when: the illegality is collateral to the contract's main purpose; it is possible to cure the illegality by means of severance; and enforcing the balance of the contract would be in the interests of justice. (*Ramirez v. Charter Communications, Inc.* (2024) 16 Cal.5th 478, 517.) If the contract tainted with illegality, the contract cannot be cured, and the court should refuse to enforce it. (*Ramirez, supra,* at 516.)

The court need go no further than the first consideration re illegality. In *Armendariz,* the court rejected the proposition that the "agreement's lack of mutuality" was collateral to the contract's main purpose. The court reasoned that "such permeation is indicated by the fact that there is no single provision a court can strike or restrict in order to remove the unconscionable taint from the agreement." (*Armendariz, supr*a, 24 Cal.4th at pp. 124–125.) Instead, "the court would have to, in effect, reform the contract, not through severance or restriction, but by augmenting it with additional terms." (*Id*. at p. 125.)

The court finds that here, similarly, the Agreement is tainted with unconscionability because its central purpose appears to be the ability for the parties to arbitrate *all* possible disputes between each other, whether related to employment or not, with defendant able to move for arbitration of claims against it and its related entities, but plaintiff only able to move for arbitration of claims by 7Redz against her, all while having given plaintiff the impression the Agreement was not terminable. (See *Cook,* at p. 329-330.)

Defendant argues that "It is obvious from a fair reading of the 7Redz agreement in full context, its thrust is employment-related claims that are arbitrable, with a commercially justifiable "margin of safety" covering circumstances when a current or former employee styles their dispute as a common law tort, such as wrongful termination in violation of public policy, defamation, conversion, and the like, or joins natural persons to the dispute, such as their

supervisor or manager, or insists their dispute, while connected to employment, does not relate thereto, especially, as here, for post-termination employment-connected claims for unpaid wages and Labor Code penalties." (Reply, p. 9, ll. 15-21.) This characterization is expressly belied by the plain language of the Agreement itself. The Agreement's purpose is not directed only at disputes related to plaintiff's employment but instead requires plaintiff to arbitrate claims that do not relate to her employment or her employer.

The motion to compel arbitration is denied.

The parties are instructed to appear at the hearing for oral argument. Appearance by Zoom Videoconference is optional and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance. (See Remote Appearance (Zoom) Information | Superior Court of California | County of Santa Barbara.)