

PROPOSED TENTATIVE

In a complaint filed on October 31, 2025, plaintiff Kristen Wood (plaintiff) filed a class-action complaint against defendant Vega Vineyard and Farm, LLC (defendant), raising numerous wage and hour violations per the Labor Code (failure to pay minimum and straight time wages), failure to pay overtime wages, failure to provide for meal and rest periods, failure to timely file wages at termination, failure to provide an accurate itemized wage statement, and failure to indemnify employees for expenditures), as well as unfair business practices violation (Bus. & Prof. Code, § 17200, et seq.). Briefly, plaintiff worked at defendant's location, as an hourly-paid, non-exempt employee from approximately April 2023 to January 2025. According to the operative pleading, plaintiff worked as a "Server, Wine Pourer, and Attendant to the located in the vineyard," responsible for "setting up service stations, preparing and cleaning tables, polishing glasses and silverware and rolling silverware and napkins into "roll ups." At times, plaintiff "worked at the shops inside the vineyard" Defendant has not answered.

On December 23, 2025, defendant filed a motion to compel arbitration. Attached to the motion is the declaration of Karen Loizides, the owner and "Managing Member" of defendant, who describes defendant's business as a vineyard and organic farm, a wine tasting room, a restaurant, an animal feeding zoo, a mercantile store, "and other facilities for customers and agents." "Wine is also sold at the vineyard property and also through the Company's website. The Company's customers and guests include people who reside outside of California and those who reside outside the United States. Customers from states outside of California purchase wine from the Company's website, and the Company ships the wine from California to those customers. She declares:". . . I purchase products that the Company sells in its store from vendors and artists from both in California, from out-of-state, and from Greece and Italy."

Ms. Loizides is responsible for human resources, including the procedures "for hiring new employees, which includes providing employees with new-hire documents. These documents include [defendant's] Employee Handbook," which contains the defendant's arbitration agreement. "Employees also sign the Confirmation of Receipt acknowledging the receipt of these documents." As part of the onboarding process, the "Officer Manager" or another trained manager" will "sit with the new employees and walk them through new-hire documents, including the Employee Handbook and the Arbitration Agreement." After each new hire signs the "Arbitration Agreement, I review and countersign it, and then I placed the signed agreement in the employee's personnel file." Ms. Loizides "reviewed [plaintiff's] personnel file, and the "Arbitration Agreement" contains plaintiff's signature, dated April 21, 2023.

Attached to Ms. Loizides's declaration is Exhibit A, the "Arbitration Agreement" at issue between the parties (which constitutes pages 107 to 109 of the Employee Handbook), and which contains the signature of plaintiff (signed April 21, 2023) and Ms. Loizides (signed April 27,

2023.) In the arbitration agreement, both parties agreed to “mandatory mediation and arbitration.” It provides: “In exchange for your agreement to submit these disputes to mediation and (if necessary) binding arbitration, The [sic] company likewise agrees to the use of mediation and arbitration as the exclusive forum for resolving employment disputes covered by this Agreement. . . .” The parties agreed “that any controversy or claim arising out of relating to your employment relationship with the company [defined a defendant as Vega Vineyard and Farm, LLC]. . . must be submitted for non-binding mediation before a third-party neutral and (if necessary) for final and binding resolution by a private and impartial arbitrator, to be jointly selected by you and company.” The agreement covers “any dispute concerning the arbitrability of any such controversy or claim”¹ The scope of the agreement includes, “but is not limited to, any claim that could be asserted in court or before an administrative agency or claims for which the employee has an alleged cause of action, including without limitation claims for breach of any contract or covenant (express or implied); tort claims; claims for discrimination . . . ,” “claims for wrongful discharge,” and/or claims “for violation of any federal, state or other governmental law, statute, regulation or ordinance, and whether based on statute or common law. . . .”

Defendant contends as follows: 1) the arbitration agreement is enforceable under the Federal Arbitration Act (FAA); 2) the arbitration of plaintiff’s individual claims must be compelled to mediation and arbitration, and the claims raised are those covered by the arbitration clause, as the parties “did not agree that class-action claims” can be resolved through arbitration (meaning, one assumes, that only individual claims can be resolved through arbitration); 3) the class-action claims must be dismissed; and 4) the arbitration agreement complies with the five-part fairness requirements of *Armendariz v. Found Health Psychare Services, Inc.* (2000) 24 Cal.4th 83. These claims are reiterated in defendant’s reply.

Plaintiff has filed opposition. Plaintiff does not dispute that she signed the arbitration agreement, and does not dispute that it covers the disputes raised in the operative pleading. Plaintiff instead contends the FAA does not apply because defendant has failed to show any evidentiary “nexus between interstate commerce” plaintiff’s employment.” Because the FAA does not apply, insists plaintiff, the California Arbitration Act in fact governs, and pursuant to Labor Code sections 229 and 432.6, compelled arbitration for wage and hour violations is unenforceable. Alternatively, plaintiff contends that the arbitration agreement is unenforceable as

¹ The court determines under existing precedent that this language does **not** constitute a binding delegation clause (i.e., one that requires the arbitrator and not the court to determine gateway questions of arbitrability). In *Beco v. Fast Auto Loans, Inc.* (2022) 86 Cal.App.5th 292, the court concluded that the same language as here – “any dispute concerning the arbitrability of any such controversy or claim” – was ambiguous and did not meet the required showing to constitute an enforceable delegation clause. “The language of this provision [] is at best ambiguous . . . [as it] could very easily be read to mean a specific substantive dispute or claim, not the issue or who decides whether the entire agreement is enforceable or unconscionable. . . .” (*Id.* at p. 303.) As defendant does not contend this language constitutes a delegation clause in any event, the matter will not be explored further.

it is both procedurally and substantively unconscionable, and the offending provisions cannot be severed.

If a party to a civil action asks the court to compel arbitration of the pending claim, the court must determine in a summary proceeding whether an “agreement to arbitrate the controversy exists.” (See Code Civ. Proc., §§ 1281.2, 1290.2; *Rosenthal v. Great Western Fin. Securities Corp.* (1996) 14 Cal.4th 394, 412–413.) “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 . . . that party bears the burden of producing evidence of, and proving by a preponderance of the evidence, any fact necessary to the defense.” (*Id.* at p. 413; see *Iyere v. Wise Auto Group* (2023) 87 Cal.App.5th 747, 754.) The arbitration proponent must first recite verbatim, or provide a copy of, the alleged agreement. (Rules of Court, rule 3.1330; *Condee v. Longwood Management Corp.* (2001) 88 Cal.App.4th 215, 219.) A movant can bear this initial burden “by attaching a copy of the arbitration agreement purportedly bearing the opposing party's signature.” (*Espejo v. Southern California Permanente Medical Groups* (2016) 246 Cal.App.4th 1047, 1060.) At this step, a movant need not “follow the normal procedures of document authentication” and need only “allege the existence of an agreement and support the allegation as provided in rule [3.1330].” (*Condee, supra*, at pp. 218, 219.) Petitioner also has the burden of proving the arbitration agreement covers the particular controversy at issue. (*Rosenthal, supra*, at p. 402; *Engalla v. Permanente Group, Inc.* (1997) 15 Cal.4th 951, 972; *Larian v. Larian* (2004) 123 Cal.App.4th 751, 760.) The procedural requirements of Code of Civil Procedure section 1281.2 do not conflict with the FAA. (*Cronus Investments, Inc. v. Concierge Services* (2005) 35 Cal.App.4th 376, 390). That is, if the parties do not expressly incorporate the FAA’s procedural provisions into the agreement, the procedural rules contemplated by Code of Civil Procedure section 1281.2 apply, even when the FAA substantively governs. (*Valencia v. Smyth* (2010) 185 Cal.App.4th 153, 159, 173-174.) The arbitration agreement here does not expressly incorporate the procedural provisions of the FAA into it (only its substantive provisions), meaning the procedural rules per Code of Civil Procedure section 1281.2 apply.

Finally, the employer -- when attempting to enforce an arbitration agreement against an employee -- must show that the arbitration agreement meets the five-part test for fairness articulated in *Armendariz, supra*, 24 Cal.4th at pp. 103-113.) “Such an arbitration agreement is lawful if it (1) provides for neutral arbitrators, (2) provides for more than minimal discovery, (3) requires a written award, (4) provides for all of the types of relief that would otherwise be available in court, and (5) does not require employees to pay either unreasonable costs or any arbitrators’ fees or expenses as a condition of access to the arbitration forum.” (*Id.* at p. 102.) Even though California public policy favors arbitration, an arbitration agreement subject to

FEHA or other unwaivable statutory rights is unenforceable if it does not meet *Armendariz's* five-factor fairness test. (*Ibid.*)

The court finds defendant has met its burden to demonstrate that the parties entered into an arbitration agreement; that the arbitration agreement covers the disputes raised in the operative pleading; and that the five-part fairness test for mandatory employment agreements per *Armendariz* has been satisfied.² The merits of the motion therefore rest on the arguments raised by plaintiff in opposition, namely 1) whether the FAA governs the arbitration agreement (for if it does not, Labor Code sections 229 and 432.6 would govern, meaning civil suits are required even if there is a private agreement to arbitrate). (*Lane v. Francis Capital Management, LLC* (2014) 224 Cal.App.4th 676, 687-688 [Lab. Code, § 229 preempted by the FAA]; *Chamber of Commerce of the United States of America v. Bonta* (9th Cir. 2023) 62 F.4th 473, 478, 686-687 [Lab. Code, § 432.6 preempted by the FAA]); and 2) whether the arbitration agreement is both procedurally and substantively unconscionable, and if so, whether severance can be applied to salvage the agreement. The court will conclude with a discussion of what is being compelled, and if only plaintiff's individual claims, what becomes of plaintiff's class claims.

A) Does the FAA Apply?

The arbitration agreement does not indicate whether the FAA applies. The As noted, if it does, the FAA would preempt both Labor Code section 229 and 432.6. If it does not, there would be no preemption, for the two statutory provisions noted above provide that actions to enforce the provisions of the wage and hour laws may be maintained without regard to the existence of a private arbitration agreement. (*Lame, supra*, at pp. 687-688; *Chamber of Commerce of the United States of America, supra*, at pp. 686-687; see generally *Hoover v. American Income Life Ins. Co.* (2012) 206 Cal.App.4th 1193, 1207.)

The employer as the moving party has the burden to show FAA preemption. (*Lane, supra*, 224 Cal.App.4th at p. 687; see *Bronco Wine Co. v. Jolly* (2004) 33 Cal.4th 943, 956.) Accordingly, a petitioner seeking an order to compel arbitration must show that the subject matter of the arbitration agreement involves interstate commerce. (*Lane, supra*, at p. 688.) The arbitration agreement is governed by the FAA if the agreement constitutes a contract "evidencing a transaction involving commerce." (9 U.S.C. § 2; *Giuliano v. Inland Empire Personnel, Inc.* (2007) 149 Cal.App.4th 1276, 1286.) In *Giuliano*, the employer supported its motion to compel arbitration with the declaration of its executive vice-president and chief legal officer that "(1) [Employer] engage[s] in interstate commerce by acquiring, developing, and selling residential

² The court observes that the language in the arbitration agreement does give some pause on one of the five factors identified by *Armendariz* – the plaintiff is not to pay unreasonable costs and arbitration fees. (*Armendariz, supra*, 24 Cal.4th at p. 107.) Here, the language of the arbitration agreement provides that the parties "agree to share equally the AAA administrative fees and the arbitrator's fees and expenses. [Note: in some jurisdictions, the employer must pay these costs by judicial opinion] . . . " California is one of those jurisdictions that requires the employer to bear the costs of arbitration. While the language was poorly drafted, it is commodious enough to account for California's rules, and the court so finds. Plaintiff in opposition does not contend otherwise.

and commercial properties in both California and Arizona and by shipping supplies from other states to California and Arizona”; and (2) the employee actively assisted the employer’s multistate activities by negotiating loans with a bank that is headquartered outside of California. Additionally, the complaint alleged the employer was engaged in “business throughout Arizona and California,” and the employee admitted that he attended meetings, sites visits, and grand opening ribbon cuttings in other states. This was sufficient to establish FAA preemption. (*Id.* at p. 1287.)

The *Lane* court concluded the following showing was insufficient to show a sufficient nexus with interstate commerce. The complaint “alleged that Lane is a California resident and [defendant] a California corporate entity, doing business and with its principal place of business in California. Lane never admitted to being engaged in interstate commerce and employer produced no declaration about the nature of the business or the scope of Lane’s employment. The employer’s “bare assertion that ‘Mr. Lange was a security analyst at a firm which manages capital investment’ is insufficient to support a finding that Lane’s employment involved interstate commerce. (*Lane, supra*, 224 Cal.App.4th at p. 688.)

Lane was similar to showing made in *Woolls v. Superior Court* (2005) 127 Cal.App.4th 197, in which the moving party submitted no declarations to show the transaction at issue involved interstate commerce. (*Id.* at p. 213.) Specifically, according to the *Woolls* court, the moving party failed to cite to any authority for the proposition that an agreement between a California homeowner and a California contractor to renovate a single-family residence in La Canada, California involves interstate commerce to implicate the FAA. (*Id.* at p. 212.) The moving party “did not make any evidentiary showing in furtherance of his assertion this transaction involves interstate commerce,” and did not present any declarations to that effect. (*Id.* at p. 213.)

In *Hoover v. American Income Life Ins.* (2012) 206 Cal.App.4th 1193, the “only established facts are that Hoover was a California resident who sold life insurance policies. Even though [defendant] is based in Texas, there was no evidence in the record establishing that the relationship between Hoover and [defendant] had specific effect or ‘bear[ing] on interstate commerce in a substantial way.’” (*Id.* at p. 1207.) “Hoover was not an employee of a national stock brokerage firm or the employee of a member of national stock exchange. [Citation.] Hoover did not work in other states or engage in multimillion dollar loan activity that affected interstate commerce by negotiating with a bank that was headquartered in another state. Under these circumstances, if the FAA did not apply, the exception favoring federal preemption and arbitration did not operative.” (*Id.* at p. 1208.)

The evidentiary showing by defendant employer here, based on both the allegations in plaintiff’s complaint, coupled with declaration from Ms. Loizides, is closer to the evidentiary showing in *Giuliano* rather than the evidentiary showing made in *Lane*, *Woolls*, and *Hoover*. The operative pleading alleges that plaintiff performed many functions associated with the defendant

vineyard, including pouring wine, serving food, and working in the retail shops, which clearly required interaction with retail customers. Ms. Loizides indicates that the retail customers of the vineyard come from all over the United States, as well as the world, who purchase wine, food, and other items. Indeed, the retail establishment sells products from all over the United States, “and from Greece and Italy.” Plaintiff’s employment (and various job duties as recounted in the operative pleading) impact interstate commerce, establishing a nexus between the employment and interstate commerce activities. Or in terms utilized by the *Hoover* court, the evidence shows that plaintiff may have well had a specific effect or bearing on interstate commerce in a substantial way – the moving of goods and services within the United States. The United States Supreme Court has made clear that the FAA applies if “the transaction in fact ‘involve[s] interstate commerce, even if the parties did not contemplate an interstate connection.’” (*Allied-Bruce Terminix Companies, Inc. v. Dobson* (1995) 513 U.S. 265, 281.) Put another way, the economic activity at issue in defendant’s business, including plaintiff’s employment activities, involved retail goods and customers from all over the United States, representing a “general practice” intertwined with interstate commerce. (*Citizens Bank v. Alafabop, Inc.*(2003) 539 U.S. 52, 56-57.) In fact it appears that plaintiff’s acts involved the last phase of a continuation of the movement of goods and services that implicated interstate commerce. (See, e.g., *Nieto v. Fresno Beverage Co., Inc.* (2019) 33 Cal.App.5th 274, 284 [even if plaintiff is not transporting goods across state lines, the transportation is part of a “practical continuity of movement” in the flow of interstate commerce, notably when they are the last phase of a continuous journey of the interstate commerce].)

The court finds the arbitration agreement is governed by the FAA, and thus FAA preemption rules apply.

B) Unconscionability

As noted above, plaintiff contends that the arbitration agreement is both procedurally and substantively unconscionable. Plaintiff acknowledges she has the burden to show unconscionability as a defense, pursuant to Code of Civil Procedure section 1281.2.

The general principles of unconscionability are well established. A contract is unconscionable if one of the parties lacked a meaningful choice in deciding whether to agree and the contract contains terms that are unreasonably favorable to the other party. Courts have referred to these two aspects of unconscionability as its “procedural and substantive elements.” (*Pinnacle Museum Tower Assn. v. Pinnacle Market Development (US), LLC* (2012) 55 Cal.4th 223, 246.) The procedural element concerns “the circumstances of contract negotiation and formation,” particularly “oppression or surprise due to unequal bargaining power.” (*Ibid.*) The substantive element, by contrast, concerns “the fairness of an agreement’s actual terms,” i.e., whether those terms “are overly harsh or one-sided.” (*Ibid.*) “Both procedural and substantive elements must be present to conclude a term is unconscionable, but these required elements need not be present to the same degree.” (*Ramirez v. Charter Communications, Inc.* (2024) 16 Cal.5th

478, 493) Courts “apply a sliding scale analysis under which ‘the more substantively oppressive [a] term, the less evidence of procedural unconscionability is required to come to the conclusion that the term is unenforceable, and vice versa.’ ” (*Ibid.*) When there is substantial procedural unconscionability, “even a relatively low degree of substantive unconscionability may suffice to render the agreement unenforceable.” (*Otto, L.L.C. v. Kho* (2019) 8 Cal.5th 111, 130) “Substantive terms that, in the abstract, might not support an unconscionability finding take on greater weight when imposed by a procedure that is demonstrably oppressive. Although procedural unconscionability alone does not invalidate a contract, its existence requires courts to closely scrutinize the substantive terms ‘to ensure they are not manifestly unfair or one-sided.’ ” (*Ibid.*) “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 v. Valencia Holding Co., LLC* (2015) 61 Cal.4th 899, 912; see *Fuentes v. Empire Nissan, Inc.* (Cal., Feb. 2, 2026, No. S280256) ____ Cal.5th ____ [2026 WL 265574, at p. 3].)

The court will assume there is some procedural unconscionability, as it appears the arbitration agreement involved a contract of adhesion. “Where, as here, a prospective employer directs an applicant to sign an arbitration agreement as part of the employment application process, the economic pressure on the applicant to sign the agreement is particularly high.” (*Fuentes, supra*, at p. 4.) There is no indication that defendant afforded plaintiff a meaningful opportunity to review the agreement, for according to Ms. Loizides, during the onboarding process, a manager or other trained employee “walk them” through the new hire documents and then the employee signs. Further, the arbitration agreement is contained in a much larger document called the “Employee Handbook,” without over 100 pages. While perhaps there is not a high degree of procedural unconscionability, there is a low-to-moderate procedural unconscionability.

The success of plaintiff’s challenge therefore turns on whether the terms of the arbitration agreement are substantively unconscionable, meaning the court must examine the fairness of the arbitration agreement’s terms, including a determination whether severance is appropriate if substantive unconscionability exists.

Plaintiff initially claims that the arbitration agreement is substantively unconscionable because it lacks mutuality. The concern is that an agreement is substantively unconscionable when it “provides benefits to broad swaths of third-party beneficiaries only in favor of [one party] without any showing of justification of this one-sided treatment.” (*Cook v. University of Southern California* (2024) 102 Cal.App.5th 312, 326.) In *Cook*, the agreement required plaintiff 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 other 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. (*Ibid.*) In fact, no explanation was “offered as to why Cook should be required to give up the ability to ever bring claims in court against a USC employee that are unrelated to USC or her employment there.”

Plaintiff claims *Cook* is dispositive here, pointing to the following language in the arbitration agreement. In Paragraph 5, the arbitration agreement provides as follows: “In exchange for your agreement to submit these disputes to mediation and (if necessary) binding arbitration, [t]he company likewise agrees to the use of mediation and arbitration as the exclusive forum for resolving employment disputes covered by this Agreement. Hence the parties shall be precluded from bringing or raising in court or another forum any dispute that was or could have been brought or raised in under the procedures set for in this Agreement.” Plaintiff then points to paragraph iii of the arbitration agreement, which provides that any “any dispute concerning the arbitrability of any such controversy or claim,” including “[a]ll those claims whether made against the company, any of its subsidiary or affiliated entities or its individual officers or directors (in an official or personal capacity).” According to plaintiff, this language means that while plaintiff is required to arbitrate claims against these other entities, they are not required to arbitrate claims against plaintiff, falling within the purview of *Cook*. (See also *Sandler v. Modernizing Medicine, Inc.* (S.D. Cal., Oct. 9, 2024, No. 24-CV-00812-AJB-BJC) 2024 WL 4469217, at *7 [plaintiff is correct that the Arbitration Provision is unfairly one-sided because it excludes ModMed's potential claims for injunctive, equitable, or declaratory relief, specific performance, and damages].)

A comparison of the language in *Cook* with the language here does not support plaintiff’s contention. In *Cook* the arbitration agreement required plaintiff to arbitrate any and all claims plaintiff may have had against third party entities – irrespective of whether the claim arose from plaintiff’s employment or not. What troubled the *Cook* court was the failure to explain why *Cook* should be required “to give up the ability to ever bring claims in court against a USC employee that are unrelated to USC or her employment there.” (*Cook, supra*, at p. 327, emphasis added..) The scope of the arbitration agreement here is far different once all the terms in the agreement are harmonized. Arbitration here is expressly limited to “employment disputes,” “employment-related disputes,” and “employment-related disputes for resolution.” Indeed, defendant (as the company) “likewise agrees to the use of mediation and arbitration as the exclusive forum for resolving employment disputes covered by this Agreement.” The arbitration agreement provides that it is limited to a controversy or claim “arising out of or relating to you employment relationship with the company or the termination of that relationship . . .” By logic (and by virtue of traditional contract interpretation principles) this language includes defendant Company itself, along with its subsidiaries or affiliated entities or its individual officers or directors in an official or personal capacity, meaning plaintiff must arbitrate claims arising from the employment against them, and they can only arbitrate claims against plaintiff when the issue arises from plaintiff’s employment. It is not reasonably possible to interpret this language in the same way the *Cook* court interpreted the language in that case. This reading affords the paradigm of mutuality, not its opposite, and for this reason, the provision is not substantively unconscionable per *Cook*.

Plaintiff also claims the arbitration agreement is substantively unconscionable because it includes within its provision “any controversy or claim arising out of or relating to your employment relationship with company or the termination of that relationship” Plaintiff points to the recently enacted Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act (EFAA) (9 U.S.C. §§ 401-402) (EFAA), which renders arbitration agreements unenforceable at the plaintiff’s election in sexual assault and sexual harassment cases that arise or accrue on or after March 3, 2022. (*Doe v. Second Street Corp.* (2024) 105 Cal.App.5th 552, 559.) According to plaintiff, the arbitration agreement in this regard is unenforceable – and thus unconscionable – because EFAA precludes mandatory arbitration for sexual assault and sexual harassment.

Defendant’s argument is unconvincing. Initially, the EFAA facially applies to a “case which . . . relates to the sexual assault dispute or the sexual harassment dispute.” (9 U.S.C. § 402(a).) (*Doe, supra*, at p. 557.) The operative pleading here does not relate to sexual assault or sexual harassment in any way. In fact, plaintiff’s reliance on *Doe* seems misplaced, for the *Doe* court made the following observations: “Here, although not all of plaintiff’s causes of action arise out of her sexual harassment allegations, the ‘case’ unquestionably ‘relates to’ the sexual harassment dispute because all of the causes of action are asserted by the same plaintiff, against the same defendants, and arise out of plaintiff’s employment by the hotel. Accordingly, the arbitration agreement is unenforceable as to each cause of action alleged in plaintiff’s FAC.” (*Ibid.*) Nothing in *Doe* can be seen to support the contention that the arbitration agreement is unconscionable under the EFAA even when the case has nothing to do in any way with sexual assault or sexual harassment. It is telling that plaintiff presents no case law suggesting as much (or interpreting *Doe* in that fashion).³

In any event, even if the court were to assume arguendo that the EFAA renders the clause at issue unconscionable because it directs arbitration even when the case does not involve sexual assault or sexual harassment, it seems evident that the provision can be severed under existing authority. The court looks to the standards enunciated in *Ramirez, supra*, 16 Cal.5th 478 and progeny for guidance. “If a contractual clause is found unconscionable, the court may, in its discretion, choose to do one of the following: (1) refuse to enforce the contract; (2) sever any unconscionable clause; or (3) limit the application of any clause to avoid unconscionable results.” (*Id.* at p. 513; see also Civ. Code § 1670.5(a). “Though the ‘statute appears to give a trial court some discretion as to whether to sever or restrict the unconscionable provision or whether to refuse to enforce the entire agreement,’ it ‘also appears to contemplate the latter course only when an agreement is ‘permeated’ by unconscionability.’ ” (*Id.* at p. 513, quoting *Armendariz, supra*, 24 Cal.4th at 122.) Here, the offending provision simply does not implicate

³ It seems unimaginable that Congress intended the EFAA to render terms of an arbitration as unconscionable when the arbitration had nothing to do with sexual assault or sexual harassment. Congressional intent was not to render all arbitration agreements as unenforceable, but to render unenforceable only those mandatory employment arbitration agreements that involve sexual assault or sexual harassment, on the plaintiff’s choice.

the central purpose of the contract (that is, the central purpose is not tainted with illegality), and the unconscionable provision can be extirpated by means of severance or otherwise restricted without augmentation or reformation. (*Ramirez, supra*, at p. 516.) The single identified defect relates to the application of the EFAA – a situation simply not implicated here. The court can restrict the meaning without affecting any of the claims advanced. (*Perez v. SDLA Courier Service, Inc.* (C.D. Cal., Dec. 23, 2025, No. 2:24-CV-09910-SPG-JPR) 2025 WL 3769261, at *9.) In the end, in the court’s view, the interests of justice favor severance or restriction, for the EFAA in no way applies to plaintiff’s causes of action.

The court rejects plaintiff’s claims that the FAA preemption does not apply. It also finds that even if there is a single instance of unconscionability, the unconscionable term can be restricted or severed, as contemplated by the *Ramirez, supra*, 16 Cal.5th at pages 513, 517.)

The court grants the motion to compel arbitration.

C) What Exactly is Being Compelled Here? Should the Court Stay or Dismiss the Class Claims?

Defendant argues that the class action claims under the FAA cannot be ordered to arbitration – only plaintiff’s individual claims can be ordered to arbitration, and asks the court to strike the class-action claims and dismiss the lawsuit. Some analysis is required in order to address the contention.

It is settled that a party cannot be compelled to submit to class arbitration where an arbitration provision is silent or ambiguous regarding whether class-action claims can be pursued in arbitration. (*Doe v. Kaiser Foundation Health Plan, Inc.* (N.D. Cal. 2024) 725 F.Supp.3d 1033, 1044.) Notably, in *Lamps Plus, Inc. v. Varela* (2019) 587 U.S 176, the court found that the FAA bars an order requiring class arbitration when the agreement is ambiguous (and not just silent) about the availability of class arbitration. In other words, an “ambiguous agreement cannot provide the necessary contractual basis for compelling class arbitration.” (*Id.* at p. 183; see *Ford v. The Silver F., Inc.* (2025) 110 Cal.App.5th 553, 566 [citing *Lamps Plus* and concluding that the courts may not infer from an ambiguous agreement that parties have consented to class arbitration].) It seems clear under this authority, given the silent and/or ambiguous nature of class-claim arbitration in the agreement, that the court cannot order the class claims to arbitration. Plaintiff in fact does not challenge the claim that the arbitration agreement is silent and/or ambiguous about the class-action claims. As a result, only plaintiff’s individual claims will be ordered to arbitration.

Contrary to defendant’s argument, however, that does not end the inquiry. It is equally clear that at no point did plaintiff **waive** the right to present her class-action claims in the arbitration agreement, meaning they could be raised in a court of law. This presents the issue of whether the class claims can be advanced in the present judicial forum while the plaintiff’s

individual claims are being resolved in mediation/arbitration. The parties do not address the issue, and the case law appears uncertain about whether the court should dismiss or stay the class claims in this situation.

At least one federal case has summarized the existing state of law as follows. In *Dominguez v. Stone Brewing Co., LLC* (S.D. Cal., July 2, 2020, No. 20-CV-251-WQH-BLM) 2020 WL 3606396, at *12, the court observed that neither the Supreme Court nor the Ninth Circuit “had determined what happens to class claims where the only putative class representative is compelled to individual arbitration, and arbitration on a class-wide basis is not permitted by the arbitration agreement. District courts have stayed or dismissed the class claims pending individual arbitration.” (*Id.* at p. 13; see *Kam-Ko Bio-Pharm Trading Co., Ltd. v. Mayne Pharma Inc* (9th Cir. 2009), 560 F.3d 935, 940)[]; 9 U.S.C. § 3 [providing that “the court. . . shall on application of one of the parties stay the trial of the action until such arbitration has been had....”]; *Sparling v. Hoffman Constr. Co.* (9th Cir. 1988) 864 F.2d 635, 638 [explaining that the district court has discretion to the dismiss an action where all of the plaintiff’s claims are barred by an arbitration clause]; *Ziober v. BLB Res., Inc.*, 839 F.3d 814, 821 (9th Cir. 2016) [affirming district court decision compelling arbitration and dismissing case].) In the end, the *Dominguez* court exercised its discretion to dismiss the class claims without prejudice. (See also *Farfan v. SSC Carmichael Operating Company LP* (N.D. Cal., Oct. 7, 2019, No. 18-CV-01472-HSG) 2019 WL 4933577, at *3 [class granted motion to compel arbitration of individual claims and dismissed class claims under *Lamps Plus*]; see also *Cervantes v. Voortman Cookies Ltd.* (S.D. Cal., July 29, 2019, No. 3:19-CV-00700-H-BGS) 2019 WL 3413419, at *7 [because class-wide arbitration is not permitted under any version of the Agreement, and the Court dismisses Plaintiffs’ class claims].)

It is settled, in California, that individual claims and class claims are not distinct causes of action, as a class action is simply a procedural device for asserting the same cause of action on behalf of additional claimants. (*Citizens of Humanity, LLC v. Ramirez* (2021) 63 Cal.App.5th 117, 132.) Given this reality under California law, and after examining the federal authority noted above, the court is inclined to strike the class action claims and dismiss the lawsuit without prejudice, rather than issue a stay, a resolution that recognizes class claims cannot be advanced without an individual representative, while affording plaintiff a second opportunity to raise the class claims in the future if an appropriate class representative can be found. That being said, the court recognizes the possibility that a stay may appropriate, underscored by the reality that the parties have not addressed the issue in their briefing. The parties are therefore directed to address at the hearing whether the court should either stay or strike the class claims and dismiss the lawsuit without prejudice. Additional written briefing is not authorized. Whatever resolution is reached, defendant is directed to provide a proposed court order for signature.

Summary:

The court grants the motion to compel arbitration, directing plaintiff's individual claims to mediation and arbitration. The court will strike the class action claims and dismiss the lawsuit without prejudice unless plaintiff convinces the court that a stay is instead appropriate. Defendant is directed to provide a proposed court order for signature.

The parties are directed to appear at the hearing either in person or by Zoom.