

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

BRUCE JONES, Individually and)	
as Personal Representative)	
of the Estate of DORIS JONES,)	C. A. No. N13C-10-278 ALR
Deceased,)	
)	
Plaintiffs,)	
)	JURY TRIAL DEMANDED
v.)	
)	
810 BROOM STREET OPERATIONS)	
LLC d/b/a HILLSIDE CENTER,)	
)	
Defendant.)	

Upon Defendant's Motion to Compel Arbitration or, in the Alternative, Motion to Dismiss

DENIED

Submitted: April 3, 2014

Decided: April 7, 2014

ORDER

Doris Jones was a resident at Hillside Center. This lawsuit arises on October 28, 2011, when the late Doris Jones suffered a fall at Hillside Center. The legal entity 810 Broom Street Operations, LLC is the licensee and owner of the facility and does business as Hillside Center (“Hillside Center”). When she fell, Doris Jones broke her hip and sustained a subdural hematoma. She died sixteen days later.

Bruce Jones is the son of Doris Jones. Bruce Jones filed this action on behalf of himself individually and on behalf of his mother’s estate as its personal

representative. The complaint filed on October 23, 2013, asserts two claims: a wrongful death claim and a survival claim.

Hillside Center has filed a motion to compel arbitration or, in the alternative, to dismiss based on lack of subject matter jurisdiction on the grounds that when Bruce Jones signed the admission documents for his mother to receive care at Hillside Center, he agreed to resolve all claims or controversies arising out of the admission of Doris Jones to Hillside Center in binding arbitration. Bruce Jones opposes the motion on the grounds that he signed the Hillside Center admission documents on his mother's behalf and pursuant to a power of attorney because his mother lacked capacity to do so on her own behalf. Furthermore, according to Bruce Jones, any agreement to arbitrate was limited to disputes regarding the enforceability of the agreement between Doris Jones and Hillside Center and did not extend to the wrongful death and/or survival action that are the subject of this lawsuit.

This Court has the authority determine whether a valid and enforceable arbitration agreement exists for purposes of determining whether it has subject matter jurisdiction. It is well settled in Delaware that the power to compel arbitration lies exclusively with the Court of Chancery.¹ This Court has held, however, that it has jurisdiction to determine whether a valid and enforceable

¹ 10 *Del. C.* 5701.

arbitration agreement exists for purposes of determining whether it has subject matter jurisdiction:

While it is true that this Court cannot make an order compelling arbitration, as that is within the province of the Chancery Court, it can certainly decide whether it lacks subject matter jurisdiction.²

Therefore, although this Court lacks jurisdiction to compel arbitration, it has the power to hear the evidence and determine whether a valid binding arbitration agreement exists and whether the scope of the agreement covers the pending claims.³

On a motion to dismiss under 12(b)(1), the Court must accept every well-pled allegation as true and draw all reasonable inferences in the non-movant's favor.⁴ Dismissal should be denied unless it appears to a “reasonable certainty” that the plaintiff would not be entitled to relief under any set of facts that could be proved to support the claim.⁵

The parties have presented facts outside the pleadings. Accordingly, the motion to dismiss is converted to a summary judgment motion. Summary

² *Tekmen & Co. v. Southern Builders, Inc.*, 2005 WL 1249035 (Del. Super., May 25, 2005).

³ *See Elia v. Hertrich Family of Automobile Dealerships, Inc.*, 2014 WL 843839 (Del. Super. Mar. 4, 2014).

⁴ *Loudon v. Archer-Daniels-Midland Co.*, 700 A.2d 135, 140 (Del. 1997).

⁵ *Id.* (citation omitted).

judgment may be granted only where the moving party can “show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.”⁶ The moving party bears the initial burden of proof, and once that is met, the burden shifts to the non-moving party to show that a material issue of fact exists.⁷ In reviewing the facts at the motion for summary judgment phase, the Court must view the facts “in the light most favorable to the non-moving party.”⁸

In an affidavit submitted to the Court with his response in opposition to the pending motion, Bruce Jones explained how he came to sign the voluntary arbitration agreement upon his mother’s admission to Hillside Center. Bruce Jones denies that he entered into an agreement to give up his right to file a lawsuit on his own behalf or on behalf of his mother’s estate. He does concede that, if his mother had a dispute about her agreement with Hillside Center, such a dispute would have been subject to arbitration.

Hillside Center has not demonstrated that the Court does not have subject matter jurisdiction for this dispute or that it is entitled judgment as a matter of law. Accordingly, the Hillside Center’s Motion to Compel Arbitration or, in the Alternative, to dismiss must be denied.

⁶ Super. Ct. R. Civ. P. 56.

⁷ *Moore v. Sizemore*, 405 A.2d 679, 680-81 (Del. 1979).

⁸ *Brzoska v. Olson*, 668 A.2d 1355, 1364 (Del. 1995).

NOW, THEREFORE, IT IS HEREBY ORDERED this 7th day of April 2014, Defendant's Motion to Compel Arbitration or, in the Alternative, to Dismiss for Lack of Subject Matter Jurisdiction is **HEREBY DENIED**.

Andrea L. Rocanelli

Honorable Andrea L. Rocanelli