In the
Missouri Court of Appeals
Western District

STATE OF MISSOURI EX REL., ALAN WADDELL,	)	
Relator,	)	**WD89050**
V.	)	**OPINION FILED: AUGUST 11, 2026**
THE HONORABLE CORY LEE ATKINS, CIRCUIT COURT JUDGE, DIVISION 17 CIRCUIT COURT OF JACKSON COUNTY, MISSOURI,	)	
Respondent.	)	

ORIGINAL PROCEEDING IN MANDAMUS

Before Writ Division: Gary D. Witt, Presiding Judge, Alok Ahuja, Judge, and Janet Sutton, Judge

Alan Waddell seeks a writ of mandamus compelling the Circuit Court of Jackson County, Missouri ("trial court"), to vacate its order which stayed the civil proceedings and ordered arbitration and to reinstate his cause of action on the trial court's docket. We issue a permanent writ of mandamus and direct the trial court to: (1) vacate its Order and Judgment granting Defendants' motion to compel arbitration and stay Waddell's claims and (2) enter an order denying that same motion.

Facts

In April 2025, Waddell filed a petition in the trial court. The petition asserted claims of defamation, tortious interference, wrongful discharge in violation of public policy, and violation of the Kansas Risk Management Act. The petition named Ronald East ("East"), HCSG Central, LLC ("HCSG"), Healthcare Services Group, Inc., Recovercare, Inc., and Recover-Care Meadowbrook Rehabilitation, LLC[1] as defendants.

The petition alleged the following: Waddell worked for HCSG as a housekeeper at a nursing home and rehabilitation facility located in Missouri beginning in 2019. East became Waddell's direct supervisor. East promoted Waddell to Manager in Training at its Meadowbrook facility on January 12, 2023. East sexually assaulted and sexually harassed Waddell on multiple occasions, all of which Waddell rebuffed. Waddell reported the abuse to HCSG. Waddell's employment was terminated in April 2023, and he was informed it was due to his failure to report for scheduled shifts. After his termination, HCSG began an investigation of Waddell's complaints against East. HCSG discussed rehiring Waddell in May 2023, and subsequently rehired Waddell to work in a different facility in Topeka, with the promise that Waddell would not have to see or communicate with East. As part of the rehiring on-line process, Waddell was required to

[1] In May 2025, Recover-Care Meadowbrook Rehabilitation, LLC filed a motion with the trial court to dismiss Waddell's claims against them for lack of personal jurisdiction and failure to state a claim. In June 2025, Waddell filed his response in opposition to the motion to dismiss. Recover-Care Meadowbrook Rehabilitation, LLC filed a reply in support of its motion in June 2025. In July 2025, the trial court dismissed Waddell's claims against Recover-Care Meadowbrook Rehabilitation, LLC.

electronically execute a Mutual Arbitration Agreement for any covered claims between the parties.

HCSG did not keep its commitment that Waddell would not have to see or communicate with East. The district manager informed Waddell that he needed to attend a company lunch for district managers and account managers. Because Waddell knew that would include East, he refused the request to attend. The district manager informed him that attending the luncheon was part of his job duties, and his employment would be terminated if he did not attend. Waddell inquired as to the status of his HR complaint against East and was informed that the investigation was "completed and addressed accordingly," but he was not given any additional information. Waddell resigned in July 2023.

In April 2025, Waddell filed his petition. In May 2025, HCSG, Healthcare Services Group, Inc., and Ron East (collectively "Defendants") filed a motion to compel arbitration and stay Waddell's claims against them. The motion alleged that Waddell signed a Mutual Arbitration Agreement with Healthcare Services Group, Inc. in May 2023 when he was rehired. They claimed that Waddell's disputes were required to go to arbitration under that agreement. In June 2025, Waddell filed his response in opposition to that motion. Defendants filed their reply in further support of their motion. In September 2025, the trial court granted Defendants' motion to compel arbitration and stay the claims against them.

In April 2026, Waddell filed a motion for the court to reconsider its decision. Defendants filed a response in opposition. In May 2026, Waddell filed a reply in support

of his motion to reconsider. On May 18, 2026, the trial court denied Waddell's motion to reconsider.

On July 1, 2026, Waddell filed a petition for a Writ of Mandamus and/or Prohibition with this Court. This Court granted Defendants time to file suggestions in opposition to the writ petition, and they did so. This Court issued a preliminary writ on July 29, 2026. We dispensed with further briefing as the issues are extensively briefed and fully presented in the motions before the trial court and the filings with this Court.

Standard of Review

This Court has the authority to issue and determine writs of mandamus. *State ex rel. Reg'l Convention v. Burton*, 533 S.W.3d 223, 225–26 (Mo. banc 2017) (citing Mo. Const., art. V, § 4.1). A writ of mandamus is an appropriate way to review whether a trial court erred in compelling arbitration. *Id*. at 226. To receive mandamus relief, a litigant must allege and prove that he has a "clear, unequivocal, specific right to a thing claimed." *Id*. (internal quotation marks omitted). Our review of whether the trial court should have granted a motion to compel arbitration is *de novo*. *Id*.

Analysis

Waddell argues that this Court should issue a writ for three reasons: (1) the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 ("EFAA"), 9 U.S.C. §§ 401-402, bars arbitration; (2) the arbitration agreement is unenforceable due to lack of mutuality; and (3) HSCG failed to show that it properly executed the arbitration agreement. We address only the first argument, as it is dispositive.

The EFAA is found in Chapter 4 of Title 9 of the United States Code. 9 U.S.C. §§ 401-402. It invalidates predispute arbitration agreements with respect to cases relating to sexual assault or sexual harassment:

> (a) In general.--Notwithstanding any other provision of this title, at the election of the person alleging conduct constituting a sexual harassment dispute or sexual assault dispute, or the named representative of a class or in a collective action alleging such conduct, no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with respect to a case which is filed under Federal, Tribal, or State law and relates to the sexual assault dispute or the sexual harassment dispute.
>
> (b) Determination of applicability.--An issue as to whether this chapter applies with respect to a dispute shall be determined under Federal law. The applicability of this chapter to an agreement to arbitrate and the validity and enforceability of an agreement to which this chapter applies shall be determined by a court, rather than an arbitrator, irrespective of whether the party resisting arbitration challenges the arbitration agreement specifically or in conjunction with other terms of the contract containing such agreement, and irrespective of whether the agreement purports to delegate such determinations to an arbitrator.

9 U.S.C. § 402. The following definitions are provided:

> (1) Predispute arbitration agreement.--The term "predispute arbitration agreement" means any agreement to arbitrate a dispute that had not yet arisen at the time of the making of the agreement.
>
> (2) Predispute joint-action waiver.--The term "predispute joint-action waiver" means an agreement, whether or not part of a predispute arbitration agreement, that would prohibit, or waive the right of, one of the parties to the agreement to participate in a joint, class, or collective action in a judicial, arbitral, administrative, or other forum, concerning a dispute that has not yet arisen at the time of the making of the agreement.
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> (3) Sexual assault dispute.--The term "sexual assault dispute" means a dispute involving a nonconsensual sexual act or sexual contact, as such terms are defined in section 2246 of title 18 or similar applicable Tribal or State law, including when the victim lacks capacity to consent.

> (4) Sexual harassment dispute.--The term "sexual harassment dispute" means a dispute relating to conduct that is alleged to constitute sexual harassment under applicable Federal, Tribal, or State law.

9 U.S.C. § 401.

The intent of the EFAA appears clear. No person who alleges they have been subjected to sexual assault or sexual harassment shall be compelled to arbitrate their claims unless they are aware that they have a claim and specifically agree to submit those particular claims to arbitration. At that point in time, both parties have equal bargaining power to decide whether or not to arbitrate the claims and to negotiate the terms under which the claims will be arbitrated, including the method by which the arbitrator/s will be selected and the procedures to the followed.

The EFAA has two components: a substantive component and a timing component. *Cornelius v. CVS Pharm. Inc.*, 133 F.4th 240, 245 (3d Cir. 2025). In their reply in support of their motion to compel arbitration, Defendants stated that "[b]ecause Plaintiff entered into the Arbitration Agreement after the facts giving rise to his allegations of sexual assault and harassment and after Plaintiff reported the alleged harassing conduct to HCSG, Plaintiff's Arbitration Agreement is not a predispute agreement to arbitrate, and the EFAA is no bar to its enforcement." In Defendants' response in opposition to Waddell's motion for the trial court to reconsider its order compelling arbitration, they repeated the same argument. They also argued that Waddell's claims do not constitute a sexual harassment dispute under the EFAA. In their suggestions in opposition to this writ, Defendants argue that the arbitration agreement is

not a predispute arbitration agreement and that Waddell did not plead a sexual harassment claim under the EFAA.

Substance of Waddell's Claims

We address the substantive component of the EFAA first. The language of the EFAA is clear that it applies when: (1) the plaintiff "alleg[es] conduct constituting a sexual harassment dispute or sexual assault dispute"; (2) the "case … is filed under Federal, Tribal, or State law"; and (3) the case "relates to the sexual assault dispute or the sexual harassment dispute." 9 U.S.C. § 402(a). Waddell's petition alleged the following counts: Count I Defamation based on East mischaracterizing Waddell as unreliable and absent as an employee; Count II Tortious Interference based on East interfering with Waddell's employment because Waddell refused to accept East's sexual abuse; Count III Wrongful Discharge in Violation of Public Policy based on HCSG terminating Waddell's employment because of his complaints and his refusal to engage in sexual activity with East; and Count IV Violation of the Kansas Risk Management Act based on Defendants' termination of Waddell's employment because Waddell reported East's sexual assault of Waddell.

Section 402(a) of the EFAA pertains to sexual assault *disputes* and sexual harassment *disputes*. Section 402(a) does not state that it applies to sexual assault claims and sexual harassment claims. The EFAA does not require the plaintiff to bring a *claim* for sexual assault or sexual harassment. The word "claim" is not used in § 402(a) at all. Waddell's petition alleges conduct constituting East's sexual assault and sexual harassment of Waddell and the employer's response to the report of the behavior. While

Waddell does not assert claims for sexual assault or sexual harassment, his claims relate to a dispute involving sexual assault and sexual harassment. *See, e.g., Doe (J.K.) v. Celebrity Cruises, Inc.*, 792 F. Supp. 3d 1371, 1381 (S.D. Fla. 2025) ("The text, therefore, points uniformly in one direction: the EFAA demands its application to any case where the facts alleged constitute a sexual assault dispute under the EFAA and the sexual assault dispute relates to the case, irrespective of whether a plaintiff labels her claims as sexual assault claims or brings them under a particular statute."); *SJ Med. Ctr., LLC v. Anozie*, 694 S.W.3d 915, 924 (Tex. Civ. App 2024) ("Given that her case involves only one claim for retaliation under Texas state law that is premised on the contention that she was terminated for reporting that she was a victim of a sexual assault, we have no difficulty in concluding that her case relates to the sexual assault dispute alleged. *See* 9 U.S.C. § 402(a)."); *Olivieri v. Stifel, Nicolaus & Co., Inc.*, 112 F.4th 74, 92 (2d Cir. 2024) ("[R]etaliation resulting from a report of sexual harassment is 'relat[ed] to conduct that is alleged to constitute sexual harassment.'" (quoting 9 U.S.C. § 401(4)). Further, the case is brought under State law. The requirements of § 402(a) are met in this case.

Defendants argue that some of Waddell's claims lack merit. That is not for this Court to decide at this stage of the proceedings. Instead, Defendants can raise the issue in the appropriate manner for the trial court to decide. *Diaz-Roa v. Hermes Law, P.C.*, 757 F. Supp. 3d 498, 533 (S.D.N.Y. 2024) ("[A] plaintiff need only plead nonfrivolous claims relating to sexual assault or to conduct alleged to constitute sexual harassment, with the sufficiency of those claims to be reserved for proper merits adjudication, be it a motion to dismiss, motion for judgment on the pleadings, motion for summary judgment, or trial.").

Defendants also argue that not all of Waddell's claims relate to a sexual assault dispute or sexual harassment dispute. The EFAA makes predispute arbitration agreements invalid and unenforceable "with respect to a *case* which is filed under Federal, Tribal, or State law and *relates to* the sexual assault dispute or the sexual harassment dispute." 9 U.S.C. § 402(a) (emphasis added). The arbitration agreement is invalid as to the entire case, and not just certain claims. *Bruce v. Adams & Reese, LLP*, 168 F.4th 367, 382 (6th Cir. 2026) ("The operative word here is 'case.' . . . All data point clearly in the direction of 'case' encompassing a plaintiff's entire suit," not just the specific claims involving a sexual assault dispute or a sexual harassment dispute.); *Johnson v. Everyrealm, Inc.*, 657 F. Supp. 3d 535, 558 (S.D.N.Y. 2023) ("This text is clear, unambiguous, and decisive as to the issue here. It keys the scope of the invalidation of the arbitration clause to the entire 'case' relating to the sexual harassment dispute. It thus does not limit the invalidation to the claim or claims in which that dispute plays a part.").

Timing of Arbitration Agreement

We next address the timing component of the EFAA. The order of alleged events in this case is as follows: (1) Waddell was sexually assaulted and sexually harassed on multiple occasions; (2) Waddell complained to his employer about the abuse; (3) Waddell's employment was terminated; (4) Waddell executed an arbitration agreement upon his rehire; (5) Waddell's employer broke its promise to not have Waddell see or communicate with East; and (6) Waddell terminated his employment and brought the current lawsuit. The EFAA prohibits predispute arbitration agreements. It does not

prohibit postdispute arbitration agreements. The issue before this Court is whether the arbitration agreement Waddell signed upon his rehire is a predispute or postdispute arbitration agreement. That question turns on a determination of what the dispute is in this case and when it arose. Waddell argues the dispute arose when he filed his lawsuit. Defendants argue the dispute arose when Waddell was allegedly sexually assaulted and harassed or at the latest when Waddell reported the abuse to his employer.

In *Famuyide v. Chipotle Mexican Grill, Inc.*, 111 F.4th 895, 897 (8th Cir. 2024), the issue raised was whether an employee's dispute arose prior to the EFAA's March 2022 enactment date. The timing of alleged events in that case was as follows: (1) the employee was sexually harassed in May through November 2021; (2) the employee reported the sexual harassment in November 2021; (3) the employee's attorney sent two letters to the employer in February 2022 requesting records and stating that the employee was considering a civil action against the employer; (4) the employer sent the employee a letter on March 1, 2022; (5) the employee brought a lawsuit against her employer in Minnesota state court in July 2022; (6) the employee voluntarily dismissed the state court action and participated in an unsuccessful mediation with her employer; and (7) the employee brought a lawsuit against her employer in federal court raising the same claims in April 2023. *Id*. at 897-99. The employer argued the dispute arose prior to the EFAA's March 2022 enactment. *Id*. at 898.

The Eight Circuit noted that "dispute" is not defined in the EFAA and applied the ordinary meaning of the word. *Id*. "In a legal context like this one, a dispute is a 'conflict or controversy, esp. one that has given rise to a particular lawsuit.'" *Id*. (quoting

Black's Law Dictionary 593 (11th ed. 2019)). The employer argued that the dispute arose when the sexual harassment occurred in 2021. *Id*. The Eighth Circuit rejected that argument, finding that, at the time the harassment occurred, the employee "had not asserted any right, claim, or demand against" the employer, and the employer "had not registered disagreement with any position" the employee held. *Id*. The Eighth Circuit found that "[t]here was no conflict or controversy between company and employee as of November 23, 2021, and no 'dispute' between the parties that could have been submitted to arbitration at that time." *Id*.

The employer next argued that the dispute arose when the employee's attorney sent two letters to the employer in February 2022. *Id*. The Eighth Circuit also rejected this argument, stating:

> This sort of exploratory letter from counsel does not establish a dispute or inevitably lead to one. Sometimes a dispute ensues after this type of correspondence. But sometimes it does not, either because the client decides not to proceed further after investigation or because the communications result in an amicable resolution between the correspondents.

Id. The court noted that, at that time, the employee was investigating potential claims and considering legal action. *Id*. The employee's attorney did not assert that the employer violated the employee's rights and did not demand compensation or payment. The Eighth Circuit found that "[t]here was thus no conflict or controversy between the parties, and no 'dispute' that could have been submitted to arbitration in February 2022." *Id*.

Finally, the employer argued that a March 2022 letter from the employer's counsel to the employee's attorney created a dispute. *Id*. at 899. The employee's complaint alleged that the letter stated the employee was terminated in error due to a data-entry mistake. *Id*. The Eighth Circuit did not consider this letter because it was not part of the record on appeal. *Id*. The Eighth Circuit affirmed the order of the district court finding that the EFAA applied to the dispute and denying the motion to compel arbitration. *Id*.

Other circuits have also considered the issue of when a dispute arises under the EFAA. The Third Circuit has held that "a 'dispute...arises' when an employee registers disagreement—through either an internal complaint, external complaint, or otherwise—with his or her employer, and the employer expressly or constructively opposes that position." *Cornelius*, 133 F.4th at 246–47 (stating that when an injury occurs is not the same thing as when a dispute arises, that "an essential component of a 'dispute' is the registration of disagreement," and that "[t]here is no compelling reason to limit the term 'dispute' to the filing of an 'external complaint alleging employer liability'"). The Ninth Circuit recently agreed with the Third Circuit. *Combs v. Netflix, Inc.*, No. 25-3164, 2026 WL 1974172, at *4-5 (9th Cir. July 8, 2026) ("When a dispute arises for EFAA purposes will be a fact-specific inquiry in every case. … Interpreting a 'dispute' to require a formal external complaint is too narrow and fails to capture the broader, ordinary meaning of the word 'dispute.' … [A]n interpretation that looks only to the underlying conduct is too broad, for it would mean that a 'dispute' arises whenever a 'claim' accrues." (internal quotation marks omitted)). The Sixth Circuit has held that "[t]he relevant question is when the parties became adverse to one another. In many cases, the dispute will arise

after the claim accrues." *Memmer v. United Wholesale Mortg., LLC*, 135 F.4th 398, 409 (6th Cir. 2025) (internal citations omitted) ("Unlike claim accrual, we lack a set legal framework to determine when a dispute arises. Depending on the facts, a dispute could arise when an injured party sends the defendant a demand letter, files an administrative charge, requests arbitration, commences a lawsuit, or some other event occurs.").

Waddell executed the arbitration agreement when he was rehired; thus, the moment when Waddell was rehired is the relevant time for determining whether a "dispute" existed between Waddell and his employer. The agreement Waddell signed was a general arbitration agreement regarding almost any possible claim that could ever arise between the parties and was unrelated in any fashion to any ongoing dispute between the parties related to sexual assault or sexual harassment. Waddell and his employer did not have any dispute at that time. When Waddell was rehired, he and his employer were not taking opposing positions. They were not adverse to one another. Both sides appeared satisfied with how the conflict was being addressed, so much so that the employer offered reemployment and Waddell accepted, with the promise that Waddell would not have to see or communicate with East. The dispute arose after Waddell signed the arbitration agreement, when the employer allegedly insisted that Waddell interact with East contrary to the assurances Waddell was given when he was rehired. The EFAA contemplates that, at the time the arbitration agreement is entered into, both parties are aware of the specific dispute and enter into the arbitration agreement to resolve that specific dispute. That is not the scenario before us.

The EFAA states that federal law governs whether the EFAA applies to a dispute. 9 U.S.C. § 402(b). Using the Eighth Circuit's holding in *Famuyide* as guidance, we find that the dispute in the current case did not arise under the provisions of the EFAA before Waddell was rehired or signed the arbitration agreement. *See, e.g.*, *Doe v. Keathley*, 344 S.W.3d 759, 763–68 (Mo. App. W.D. 2011) (finding that the meaning given to the term "convicted" in the Sexual Offender Registration and Notification Act must be decided under federal law and stating that the Eighth Circuit's decisions on the issue are "[o]f particular relevance here"). The arbitration agreement Waddell executed as part of his rehiring process is a predispute arbitration agreement and therefore unenforceable against Waddell in the current litigation.

Conclusion

The EFAA is applicable to this arbitration agreement. Because Waddell has elected to oppose arbitration under the EFAA, the arbitration agreement is not enforceable with respect to his case. We issue a permanent writ of mandamus. The trial court is ordered to vacate its September 2, 2025 Order and Judgment granting Defendants' motion to compel arbitration and stay Waddell's claims. The trial court is further directed to enter an order denying Defendants' motion to compel arbitration and proceed with the underlying lawsuit. Nothing herein shall prohibit the parties from

entering into a new arbitration agreement to submit the specific claims in the underlying lawsuit to arbitration or mediation and to negotiate the terms by which that may occur.



Gary D. Witt, Presiding Judge

All concur