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CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: *g*

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JULIE O'SHAUGHNESSY, §
INDIVIDUALLY, AND ON BEHALF §
OF ALL OTHERS SIMILARLY §
SITUATED, §

PLAINTIFF, §

V. §

CAUSE NO. 19-CV-412-LY

YOUNG LIVING ESSENTIAL OILS, LC §
D/BA YOUNG LIVING ESSENTIAL §
OILS; THE YOUNG LIVING §
FOUNDATION, INC.; MARY YOUNG; §
JARED TURNER; BENJAMIN RILEY; §
AND CO-CONSPIRATORS, §
DEFENDANTS. §

ORDER ON REPORT AND RECOMMENDATION

Before the court are Defendant Young Living Essential Oils, LC's Motion to Compel Arbitration filed June 11, 2019 (Doc. #7); The Young Living Foundation, Inc., Mary Young, Jared Turner, and Benjamin Riley's Motion to Compel Arbitration and Joinder in Young Living Essential Oil LC's Motion to Compel Arbitration and Stay Proceedings filed on June 11, 2019 (Doc. #8); and related response and replies, The motions, responses, and replies were referred to the United States Magistrate Judge for a Report and Recommendation as to the merits pursuant to 28 U.S.C. § 636(b), Rule 72 of the Federal Rules of Civil Procedure, and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas. The magistrate judge filed a Report and Recommendation on October 18, 2019 (Doc. #29), recommending that this court deny the motions.

Pursuant to 28 U.S.C. § 636(b) and Rule 72(b) of the Federal Rules of Civil Procedure, a party may serve and file specific, written objections to the proposed findings and recommendations

of the magistrate judge within 14 days after being served with a copy of the Report and Recommendation, and thereby secure a *de novo* review by the district court. A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a Report and Recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *See Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en banc*).

Defendants' Objections to Report and Recommendation of the United States Magistrate Judge was filed November 1, 2019 (Doc. #30). Plaintiff's Response to Defendants' Objections to the Magistrate Judge's Report and Recommendation was filed November 14, 2019 (Doc. #31). In light of the objections, the court has undertaken a *de novo* review of the entire case file and finds that the magistrate judge's Report and Recommendation should be approved and accepted for the substantially the reasons stated therein.

Defendants argue that the report and recommendation should be disregarded because it fails to apply binding United States Supreme Court precedent cited by Defendants and fails to resolve, analyze, or mention Defendants' principal argument regarding the "Arbitration Carveout" in the agreement at issue. The court disagrees, finding that the magistrate judge properly relied on applicable law and properly concluded that the Forum Selection Clause and Arbitration Clause conflict so that they cannot be harmonized.

IT IS THEREFORE ORDERED that Defendants' Objections to Report and Recommendation of the United States Magistrate Judge was filed November 1, 2019 (Doc. #30) are **OVERRULED**.

IT IS FURTHER ORDERED that the United States Magistrate Judge's Report and Recommendation (Doc. #29) filed in this cause is hereby **APPROVED** and **ACCEPTED** for the reasons stated herein.

IT IS FURTHER ORDERED that Defendant Young Living Essential Oils, LC's Motion to Compel Arbitration filed June 11, 2019 (Doc. #7) is **DENIED**.

IT IS FINALLY ORDERED that The Young Living Foundation, Inc., Mary Young, Jared Turner, and Benjamin Riley's Motion to Compel Arbitration and Joinder in Young Living Essential Oil LC's Motion to Compel Arbitration and Stay Proceedings filed on June 11, 2019 (Doc. #8) is **DENIED**.

SIGNED this 27th day of November, 2019.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE