[Cite as *RoviSys Co. v. MRS Instrumentation & Controls, L.L.C.*, 2026-Ohio-4339.]

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
PORTAGE COUNTY

THE ROVISYS COMPANY, Plaintiff-Appellant, - vs - MRS INSTRUMENTATION & CONTROLS, L.L.C., et al., Defendants-Appellees.	**CASE NO. 2026-P-0051** Civil Appeal from the Court of Common Pleas Trial Court No. 2025 CV 00904

OPINION AND JUDGMENT ENTRY

Decided: November 2, 2026
Judgment: Affirmed

Mark M. Mikhaiel, *Michael W. Schauer*, and *James D. Vail*, Schneider Bell, 1111 Superior Avenue, Suite 2200, Cleveland, OH 44114 (For Plaintiff-Appellant).

James J. Collum, Law Office of James J. Collum, L.L.C., 4618 Dressler Road, Canton, OH 44718 (For Defendants-Appellees).

JOHN J. EKLUND, J.

{¶1} Appellant, The RoviSys Company, appeals the judgment of the Portage County Court of Common Pleas granting the motion to stay pending arbitration filed by Appellees, MRS Instrumentation & Controls, L.L.C. ("MRS") and Christopher Manners ("Manners").

{¶2} Appellant raises three assignments of error arguing the trial court erred by granting a stay pending arbitration because (1) Appellees waived any right to arbitrate and were in default in requesting arbitration; (2) the arbitration clause's carve-out

reserved Appellant's claims against Manners to the courts; (3) MRS, a nonsignatory to the parties' agreement, could not invoke the arbitration clause.

{¶3} Having reviewed the record and the applicable law, we find Appellant's assignments of error to be without merit. First, based on the plain text of the parties' agreement and the nature of Appellant's claims, the trial court did not abuse its discretion in referring the matter to arbitration. In addition, the court applied the correct law by staying the entire proceeding. Second, the trial court applied the correct law by staying Appellant's claims against MRS despite MRS being a nonsignatory to the agreement. Third, the trial court did not abuse its discretion in failing to find waiver or default on Appellees' part.

{¶4} Therefore, we affirm the judgment of the Portage County Court of Common Pleas.

Substantive and Procedural History

{¶5} Appellant is an Ohio corporation engaged in automation and information services. Manners is Appellant's former employee. MRS is a company formed in November 2024 whose registered agent is Manners' daughter, Ava Reese ("Ms. Reese").

{¶6} On July 30, 2004, Appellant and Manners entered into an employment agreement pursuant to which Appellant employed Manners as an engineer. At issue in this case is the arbitration clause in paragraph 7, which provides:

> **Arbitration**. The Employee agrees that any claim or dispute arising out of, or relating to, his/her employment with the Company, including any controversy or claim relating to compensation, employment, termination from employment, or discrimination under local, state or federal law such as the Age Discrimination in Employment Act, as amended, Title VII of the Civil Rights Act of 1964, as amended, including the amendments of the Civil Rights Act of 1991, and the Americans with Disabilities Act, shall be settled by arbitration administered by the American Arbitration Association under

> its National Rules for the Resolution of Employment Disputes; provided, however, the Company shall be entitled to seek injunctive relief, without resorting to Arbitration, for any breach of Paragraphs 4, 5 or 6.

{¶7} As referenced in the last sentence, paragraph 4 contains a non-compete covenant; paragraph 5 addresses "Disclosure of Technical Information/Assignment of Technical Discoveries, Etc."; and paragraph 6 addresses "Non-Disclosure of Confidential Information." The parties refer to the last sentence as the "carve-out." Therefore, we do the same.

{¶8} On October 17, 2025, Appellant filed a verified complaint against Manners and MRS in the Portage County Court of Common Pleas. Appellant alleged that Manners engaged in a "scheme . . . to unlawfully divert [Appellant's] trade secrets, propriety and confidential information, and business relationships for the use and benefit of himself and his new employer, MRS, all while still employed by [Appellant]." Appellant asserted 12 claims for relief: breach of contract (count 1), misappropriation of trade secrets (counts 2 and 3), conversion (count 4), breach of duty of loyalty/faithless servant doctrine (count 5), civil conspiracy (count 6), tortious interference with existing and prospective contractual and business relationships (count 7), unfair competition (count 8), unjust enrichment (count 9), breach of fiduciary duty (count 10), respondeat superior (count 11), and disgorgement of compensation (count 12). Appellant asserted counts 1, 5, 10, and 12 against Manners; count 11 against MRS; and counts 2, 3, and 6-9 against both.[1] Appellant requested a temporary restraining order; preliminary and permanent injunctions; compensatory, punitive, and statutory damages; attorney fees; and costs.

1. It is unclear against whom Appellant asserted count 4 (conversion) because the original complaint in the record is missing page 19.

{¶1} On the same date, Appellant also filed a motion for a temporary restraining order and for a preliminary injunction.

{¶2} On October 23, 2025, Appellant filed a motion for expedited discovery.

{¶3} On October 29, 2025, Ms. Reese, on behalf of MRS, and Manners executed consents to a preliminary injunction.

{¶4} On October 31, 2025, Appellant filed an unopposed motion to enter the agreed preliminary injunction and included Appellees' consents.

{¶5} On November 5, 2025, the trial court filed the agreed order granting the preliminary injunction. The preliminary injunction automatically expired on January 30, 2026.

{¶6} On February 27, 2026, Appellees' counsel filed a notice of appearance and a motion to stay pending arbitration or, in the alternative, leave to plead.

{¶7} On March 11, 2026, Appellant filed brief in opposition.

{¶8} On March 16, 2026, Appellees filed a reply.

{¶9} On March 25, 2026, the magistrate held a status conference. The magistrate filed an order setting the matter for a further status conference in approximately 60 days and holding the motion to stay in abeyance until the next status conference.

{¶10} On May 7, 2026, Appellees filed a motion for a telephone conference. Appellees wrote that Appellant was proceeding with discovery despite the pending motion to stay, which was contrary to Appellees' understanding as to how the parties would proceed.

{¶11} On May 11, 2026, the magistrate scheduled a telephone status conference for September 8, 2026.

{¶12} On May 12, 2026, Appellees filed an amended motion requesting a telephone status within 14 days.

{¶13} On May 22, 2026, the trial court filed an order and journal entry granting Appellee's motion to stay and stayed the matter for arbitration proceedings.

{¶14} On June 10, 2026, Appellant timely appealed and raises three assignments of error.

Standard of Review

{¶15} "'Generally, the standard of review for a decision granting or denying a motion to stay proceedings pending arbitration is abuse of discretion." *Naylor Family Partnership v. Home S. & L. Co. of Youngstown*, 2014-Ohio-2704, ¶ 13 (11th Dist.). An abuse of discretion is the trial court's "'failure to exercise sound, reasonable, and legal decision-making.'" *State v. Beechler*, 2010-Ohio-1900, ¶ 62 (2d Dist.), quoting *Black's Law Dictionary* (8th Ed. 2004). "A decision is unreasonable if there is no sound reasoning process that would support that decision." *AAAA Enterprises, Inc. v. River Place Community Urban Redevelopment Corp.*, 50 Ohio St.3d 157, 161 (1990). "[A] de novo standard of review is used when a trial court's grant or denial of a stay is based solely upon questions of law." *Naylor* at ¶ 13.

Scope of Arbitration Clause

{¶16} We review Appellant's assignments of error out of order for ease of discussion.

{¶17} Appellant's second assignment of error states: "The Trial Court erred by granting a stay pending arbitration because the Employment Agreement's carve-out reserves [Appellant's] claims against Manners to the courts."

{¶18} In essence, Appellant argues that the claims it asserted against Manners in the trial court are beyond the scope of the arbitration clause.

{¶19} "When confronted with an issue of contract interpretation, our role is to give effect to the intent of the parties." *Sunoco, Inc. (R & M) v. Toledo Edison Co.*, 2011-Ohio-2720, ¶ 37. "We will examine the contract as a whole and presume that the intent of the parties is reflected in the language of the contract." *Id*. "In addition, we will look to the plain and ordinary meaning of the language used in the contract unless another meaning is clearly apparent from the contents of the agreement." *Id*. "When the language of a written contract is clear, a court may look no further than the writing itself to find the intent of the parties." *Id*. "'As a matter of law, a contract is unambiguous if it can be given a definite legal meaning.'" *Id*., quoting *Westfield Ins. Co. v. Galatis*, 2003-Ohio-5849, ¶ 11.

{¶20} R.C. 2711.01(A) provides that "[a] provision in any written contract . . . to settle by arbitration a controversy that subsequently arises out of the contract . . . shall be valid, irrevocable, and enforceable, except upon grounds that exist at law or in equity for the revocation of any contract."

{¶21} R.C. 2711.02(B) provides:

> [1] If any action is brought upon any issue referable to arbitration under an agreement in writing for arbitration, [2] the court in which the action is pending, upon being satisfied that the issue involved in the action is referable to arbitration under an agreement in writing for arbitration, [3] shall on application of one of the parties stay the trial of the action until the arbitration of the issue has been had in accordance with the agreement, [4] provided the applicant for the stay is not in default in proceeding with arbitration.

{¶22} The Supreme Court of Ohio has explained that "'"arbitration is a matter of contract and a party cannot be required to submit to arbitration any dispute which [it] has not agreed so to submit." . . . This axiom recognizes the fact that arbitrators derive their authority to resolve disputes only because the parties have agreed to submit such grievances to arbitration.'" *Council of Smaller Ents. v. Gates, McDonald & Co.*, 1998-Ohio-172, ¶ 21, quoting *AT & T Technologies, Inc. v. Communications Workers of Am.*, 475 U.S. 643, 648-649 (1986), quoting *United Steelworkers of Am. v. Warrior & Gulf Navigation Co.*, 363 U.S. 574, 58 (1960). "Accordingly, . . . the proper focus is whether the parties actually agreed to arbitrate the issue, i.e., the scope of the arbitration clause, not the general policies of the arbitration statutes." *Taylor v. Ernst & Young, L.L.P.*, 2011-Ohio-5262, ¶ 20. "[A]lthough any ambiguities in the language of a contract containing an arbitration provision should be resolved in favor of arbitration, the courts must not 'override the clear intent of the parties, or reach a result inconsistent with the plain text of the contract, simply because the policy favoring arbitration is implicated.'" *Id*., quoting *Equal Emp. Opportunity Comm. v. Waffle House*, 534 U.S. 279, 294 (2002). "For these reasons, Ohio courts recognize a presumption in favor of arbitration when a claim falls within the scope of an arbitration provision." *Id*. at ¶ 21.

{¶23} As stated, the arbitration clause provides:

> The Employee agrees that *any claim or dispute arising out of, or relating to, his/her employment with the Company*, including any controversy or claim relating to compensation, employment, termination from employment, or discrimination under local, state or federal law such as the Age Discrimination in Employment Act, as amended, Title VII of the Civil Rights Act of 1964, as amended, including the amendments of the Civil Rights Act of 1991, and the Americans with Disabilities Act, *shall be settled by arbitration* administered by the American Arbitration Association under its National Rules for the Resolution of Employment Disputes; *provided,*

> *however, the Company shall be entitled to seek injunctive relief, without resorting to Arbitration, for any breach of Paragraphs 4, 5 or 6*.

(Emphasis added.)

{¶24} Appellant first argues that since the arbitration clause begins with the phrase, "The Employee agrees . . . ," this means that Appellant did not agree to arbitrate any of its own claims.

{¶25} We disagree with Appellant's proposed reading. Appellant's argument is based on three words of the arbitration clause read in isolation. However, the plain text of the full clause indicates that the parties agreed to arbitrate any claims that involve Manners' employment, except as otherwise specified in the carve-out. This is because the agreement uses the term "any claim or dispute" and contains no limitation as to which party must assert it. As one court has explained, the purpose of this type of carve-out is to enjoin a party "from continuing to allegedly breach the employment agreement until the two parties [can] obtain arbitration." *Buck Consultants, Inc. v. Smith*, 2000 WL 1807220, *3 (8th Dist. Dec. 7, 2000). By contrast, if Appellant's reading were correct, then there would be no need for the carve-out.

{¶26} Appellant next argues that the carve-out relates to "the nature" of Appellant's alleged breaches of paragraphs 4-6 and "not the remedy ultimately awarded." According to Appellant, since it filed claims against Manners for his alleged breaches of paragraphs 4-6, it was not required to "resort to arbitration."

{¶27} Again, we disagree. Ohio courts have described "injunctive relief" as "a remedy, not a cause of action." *Bresler v. Rock*, 2018-Ohio-5138, ¶ 45 (10th Dist.); *see R.L.R. Investments LLC v. Cross St. Partners L.L.C.*, 2024-Ohio-2292, ¶ 32 (2d Dist.) ("An injunction is an equitable remedy, not a claim for relief or a standalone cause of

action.") Pursuant to the parties' agreement, Appellant is permitted to seek the remedy of injunctive relief in court for Manners' alleged breaches of paragraphs 4-6; however, Appellant is not permitted to seek other remedies in that forum.

{¶28} In support of its position, Appellant relies on the Fifth Circuit Court of Appeals' decision in *Archer & White Sales, Incr. v. Henry Schein, Inc.*, 935 F.3d 274 (5th Cir. 2019). The arbitration clause in *Archer* provided, in relevant part, that "[a]ny dispute arising under or related to this Agreement (except for *actions* seeking injunctive relief and disputes related to trademarks, trade secrets, or other intellectual property of Pelton & Crane), shall be resolved by binding arbitration . . . ." (Emphasis added.) *Id*. at 277. The Fifth Circuit determined that plaintiff was not required to arbitrate its antitrust action seeking both injunctive relief and money damages. The court reasoned that the carve-out was not limited to "actions" seeking "only" injunctive relief or to "claims" for injunctive relief. *Id*. at 283.

{¶29} We find *Archer* to be distinguishable. Unlike in *Archer*, the carve-out in this case does not exempt "actions" for injunctive relief; thus, *Archer*'s reasoning is inapposite.

{¶30} Appellant next argues that even if some of its claims are arbitrable, the trial court erred by staying the entire proceeding. However, Ohio courts have held the exact opposite: "Pursuant to R.C. 2711.02, when an action involves both arbitrable and non-arbitrable claims, the entire proceeding must be stayed until the issues that are subject to arbitration are resolved." *Cheney v. Sears, Roebuck & Co.*, 2005-Ohio-3283, ¶ 12 (10th Dist.); *see Jarvis v. Lehr*, 2014-Ohio-3567, ¶ 15 (1st Dist.); *Raber v. Emeritus at Marietta*, 2016-Ohio-1531, ¶ 3 (4th Dist.).

{¶31} Appellant next suggests that the "prospect of splintered proceedings" precluded the trial court's "blanket" stay. In support, Appellant cites this Court's decision in *Credit Acceptance Corp. v. Burson*, 2026-Ohio-1610 (11th Dist.), where we noted that "[s]ome courts have held that the outcome Appellants fear [simultaneous court and arbitration proceedings] may justify denying arbitration to all." *Id*. at ¶ 46. Our statement in *Burson* involved the effect of arbitration on third-party defendants who did not request it. *See id*. at ¶ 44. However, we ultimately enforced the arbitration clause according to its express terms. *See id*. at ¶ 46-50. Therefore, *Burson* does not support a contrary result.

{¶32} The trial court did not abuse its discretion by referring the matter to arbitration. In addition, the trial court correctly applied the law by staying the entire proceeding.

{¶33} Accordingly, Appellant second assignment of error is without merit.

Nonsignatory

{¶34} Appellant's third assignment of error states: "The Trial Court erred by staying [Appellant's] claims against MRS, a nonsignatory that cannot invoke the Employment Agreement's arbitration clause."

{¶35} Ohio courts have held that "[o]nce a court determines an issue in the proceeding is covered by a written arbitration agreement, even claims involving nonsignatories to the arbitration agreement will be stayed under R.C. 2711.02(B)." *Jarvis*, 2014-Ohio-3567, at ¶ 11 (1st Dist.); *see Murray v. David Moore Builders, Inc.*, 2008-Ohio-2960, ¶ 11 (9th Dist.); *Raber*, 2016-Ohio-1531, at ¶ 25 (4th Dist.); *Barnhart v. Stanley*, 2025-Ohio-997, ¶ 9 (6th Dist.).

{¶36} The cases that Appellant cites are distinguishable. For instance, in *I Sports v. IMG Worldwide, Inc.*, 2004-Ohio-3113 (8th Dist.), the defendants were not signatories to the agreement containing the arbitration provision. *Id*. at ¶ 6. Here, Manners was both a signatory and a defendant. In addition, in *Naylor*, 2014-Ohio-2704 (11th Dist.), we noted that one of the reasons that arbitration is favored, i.e., "to promote the expeditious and economical resolution of litigation and disputes," was likely not served in that case because "at least two of the parties to the agreement . . . are not requesting arbitration," and because "additional parties to the litigation are not parties to the arbitration agreement." *Id*. at 25. However, we described that issue as a "factor" that may "have influenced the trial court's exercise of its discretion in finding" waiver. *Id*. at ¶ 25. As explained below, we find *Naylor* to be distinguishable.

{¶37} The trial court correctly applied the law by staying Appellant's claims against MRS despite MRS being a nonsignatory. Accordingly, Appellant's third assignment of error is without merit.

Waiver and Default

{¶38} Finally, Appellant's first assignment of error states: "The Trial Court erred by granting a stay pending arbitration because Appellees waived any right to arbitrate and because Appellees are in default pursuant to R.C. 2711.02(B)."

{¶39} "'[T]he right to arbitration can be waived.'" *Naylor*, 2014-Ohio-2704, at ¶ 18 (11th Dist.), quoting *Hogan v. Cincinnati Fin. Corp.*, 2004-Ohio-3331, ¶ 22 (11th Dist.). "'A waiver is a voluntary relinquishment of a known right.'" *White Co. v. Canton Transp. Co.*, 131 Ohio St. 190, 198 (1936), quoting *List & Son Co. v. Chase*, 80 Ohio St. 42, 49 (1909). To prove waiver, the opposing party must demonstrate "'(1) that the party waiving

the right knew of the existing right of arbitration and (2) that the party acted inconsistently with that right.'" *Naylor* at ¶ 18, quoting *Hogan* at ¶ 23. This Court has stated that "waiver should not be 'lightly inferred.'" *Paradie v. Turning Point Builders, Inc.*, 2021-Ohio-2178, ¶ 13 (11th Dist.), quoting *Harsco Corp. v. Crane Carrier Co.*, 122 Ohio App.3d 406, 415 (3d Dist. 1997). Thus, "[t]he burden on the party seeking to establish waiver of the contractual right to arbitrate is a heavy one." *Burson*, 2026-Ohio-1610, at ¶ 22 (11th Dist.).

{¶40} "In determining whether a party acted inconsistently with the right to arbitrate, this court has applied the totality of the circumstances test set forth in *Harsco*." *Paradie* at ¶ 14.

> Such circumstances that *may* be considered by the trial court to determine whether a party acted inconsistently with his right to arbitrate include: (1) any delay in the requesting party's demand to arbitrate by filing a motion to stay the proceedings pending arbitration; (2) the extent of the requesting party's participation in the litigation prior to its filing a motion to stay the proceeding, including a determination of the status of discovery, dispositive motions, and the trial date; (3) whether the requesting party invoked the jurisdiction of the court by filing a counterclaim or third-party complaint without asking for a stay of the proceedings pending arbitration; and (4) whether the non-requesting party has been prejudiced by the requesting party's inconsistent acts.

(Emphasis in original.) *Glenmoore Builders, Inc. v. Kennedy*, 2001 WL 1561742, *4 (11th Dist. Dec. 7, 2001).

{¶41} In *Morgan v. Sundance, Inc.*, 596 U.S. 411 (2022), the Supreme Court of the United States held that waiver of a contractual right to arbitrate should not require a showing of prejudice. *Id*. at 417. Instead, courts should "apply ordinary waiver rules" that determine whether a party has demonstrated an intentional relinquishment of a known

right. *Schwebke v. United Wholesale Mtge. L.L.C.*, 96 F.4th 971, 974 (6th Cir. 2024). *See Burson* at ¶ 23.

{¶42} "[A]ctive participation in a lawsuit . . . evidencing an acquiescence to proceeding in a judicial rather than arbitration forum has been found to support a finding of waiver." *Hogan*, 2004-Ohio-3331, at ¶ 24 (11th Dist.), quoting *Griffith v. Linton*, 130 Ohio App.3d 746, 752 (10th Dist. 1998). For instance, in *EMCC Invest. Ventures, L.L.C. v. Rowe*, 2012-Ohio-4462 (11th Dist.), this Court found wavier where "for nearly 28 months," the parties engaged in discovery, motion practice, including motions for summary judgment and class certification, and mediation. *Id.* at ¶ 49-52. In *Liberty Credit Serv. Assignee v. Yonker*, 2013-Ohio-3976 (11th Dist.), this Court found waiver where the plaintiffs filed an action in the municipal court; the defendant filed a counterclaim; the case was transferred to the court of common pleas; the plaintiffs sought removal to federal court; the defendant filed a motion to remand from federal court; and the parties engaged in discovery. *Id.* at ¶ 27. In *Naylor*, 2014-Ohio-2704 (11th Dist.), we found waiver where the appellants waited 11 months to file a motion to stay the proceedings pending arbitration. *Id*. at ¶ 23. In addition, the appellants attended a case management conference in which they agreed to provide a coordinated response to the plaintiff's discovery requests but instead engaged in delay tactics. *Id*. at ¶ 24.

{¶43} Here, Appellant argues that Manners had knowledge of the arbitration clause because he signed the employment agreement; that Appellees acted inconsistently with the right to arbitration by actively participating in the lawsuit for over four months; and that, while prejudice is not required to establish waiver, Appellees'

signing of "unconditional" consents to the preliminary injunction prejudiced Appellant because it caused Appellant to forego a longer injunction.

{¶44} Appellees counter that they did not have legal representation until filing the motion to stay. In addition, they did not file an answer to the complaint and did not participate in any discovery. Rather, Appellees' only participation consisted of signing the consents to the preliminary injunction.

{¶45} Upon review, we find no abuse of discretion in the trial court's determination. Unlike the cited authorities, the record reflects that Appellees did not file answers to Appellant's complaint or engage in discovery. Rather, Appellees' only substantive participation in the lawsuit over its four-month duration consisted of consenting to the preliminary injunction while they were unrepresented by counsel. As soon as counsel filed his notice of appearance, however, Appellees consistently sought to enforce the arbitration clause. In addition, Appellees' execution of the consents was not inconsistent with the arbitration clause. As explained, the arbitration clause expressly permitted Appellant to seek injunctive relief regarding Manners' alleged breaches of paragraphs 4-6 of the agreement. Thus, Appellant was not prejudiced. *See Burson*, 2026-Ohio-1610, at ¶ 31 (11th Dist.).

{¶46} Appellant next argues that Appellees were not entitled to a stay because Appellees were in default in proceeding with arbitration pursuant to R.C. 2711.02(B). Appellant contends that prior to seeking a stay, Appellees had never filed an arbitration demand with the American Arbitration Association or any other forum.

{¶47} Appellant cites no authority indicating that Appellees were required to take such action. At least one court has construed R.C. 2711.02(B) as authorizing a party to

file a motion to stay "without first making an arbitration demand with any arbitration panel." *Winters v. Premier Warranty Group, Inc.*, 2006-Ohio-58, ¶ 15 (5th Dist.). Appellant counters that any reliance on *Winters* is "misplaced" because, unlike Appellees, the movant in *Winters* "never litigated the merits." For the reasons explained above, however, we disagree that Appellant's characterization of Appellees' actions.

{¶48} The trial court did not abuse its discretion in failing to find waiver or default on Appellees' part. Accordingly, Appellant's first assignment of error is without merit.

{¶49} For the forgoing reasons, the judgment of the Portage County Court of Common Pleas is affirmed.

MATT LYNCH, P.J.,

ROBERT J. PATTON, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, Appellant's assignments of error are without merit. It is the judgment and order of this court that the judgment of the Portage County Court of Common Pleas is affirmed.

Costs to be taxed against Appellant.

JUDGE JOHN J. EKLUND

PRESIDING JUDGE MATT LYNCH,
concurs

JUDGE ROBERT J. PATTON,
concurs

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY

A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.