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COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

SVN CORNERSTONE, LLC, a Washington Limited Liability
Company,

Respondent,

v.

N. 807 INCORPORATED, a Washington corporation, d/b/a
BERKSHIRE HATHAWAY HOMESERVICES FIRST LOOK
REAL ESTATE; KENNETH M. LEWIS AND MICHELLE S.
LEWIS, and the marital community composed thereto;
HENRY SEIPP AND JANE DOE SEIPP, and the marital
community composed thereof,

Appellants.

**REPLY BRIEF OF APPELLANTS N. 807
INCORPORATED, d/b/a BERKSHIRE HATHAWAY
HOMESERVICES FIRST LOOK REAL ESTATE,
KENNETH M. LEWIS AND MICHELLE S. LEWIS,
AND HENRY SEIPP AND JANE DOE SEIPP**

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I. ARGUMENT

A. **Washington's Black Letter Law Requires That The Current Dispute Be Submitted To CBA Arbitration.**

Respondent SVN Cornerstone, LLC ("Cornerstone") admits that the essence of the present controversy between the parties is a dispute over commission. (CP 473)(*Cornerstone lost the opportunity to obtain a commission of 3% of the gross sale price of \$2,100,000 for the Property, which would have been the principal amount of \$63,000*). Therefore, this entire dispute can be summarized in one simple sentence: Cornerstone, a real estate brokerage firm, asserts that it is entitled to the commission earned for the sale of the Timber Court Apartments, 2707 E. 37th Avenue, Spokane, Washington 99223 (the "Property"), by Appellant N. 807 Incorporated d/b/a Berkshire Hathaway HomeServices First Look Real Estate, another real estate brokerage firm, its owner, Kenneth Lewis, and its broker, Henry Seipp (collectively "Berkshire Hathaway"). Cornerstone is a member of the Commercial Brokers Association ("CBA"). (CP 20-22, 25). When it became a member, it undertook a duty to submit all controversies involving commission to binding CBA arbitration rather than to file suit. (CP 30-32).

It bears repeating that for over forty years, Washington courts have held that "[v]oluntary membership in a professional

organization gives rise to a corresponding obligation to comply with that organization's bylaws." Marcus & Millichap Real Estate Inv. Services of Seattle, Inc. v. Yates, Wood & MacDonald, Inc., 192 Wn. App. 465, 469, review denied, 185 Wn.2d 1041 (2016) (citing Keith Adams & Assoc., Inc. v. Edwards, 3 Wn. App. 623 (1970), disapproved of on other grounds by Godfrey v. Hartford Cas. Ins. Co., 142 Wn.2d 885 (2001)). The enforceability of an arbitration agreement is a question of law. Id. at 473-74. If there are any genuine issues of fact concerning the agreement to arbitrate, courts should apply a "*strong presumption of arbitrability*," and "*doubts should be resolved in favor of coverage.*" Id. at 474 (quoting Peninsula Sch. Dist. No. 401 v. Pub. Sch. Emps. of Peninsula, 130 Wn.2d 401, 414 (1996)). "*If the dispute can fairly be said to invoke a claim covered by the agreement, any inquiry by the courts must end.*" Id. (citing Heights at Issaquah Ridge, Owners Ass'n v. Burton Landscape Grp., Inc., 148 Wn. App. 400, 403 (2009)).

Here, all parties to the present litigation are members of the Commercial Brokers Association ("CBA"). (CP 25-28). And, the CBA bylaws provide that:

It is the duty of the members of CBA (and each so agrees) to submit all controversies involving commissions between or among them to binding arbitration by CBA pursuant to its then current

arbitration rules and policies, rather than to bring a suit to law. The foregoing includes controversies which arose prior to one of the parties becoming a member.

(CP 30-32). Thus, the parties undertook a duty and agreed to submit any controversy involving commission to binding CBA arbitration. *Id.*

Cornerstone's "*bootstrapping*" argument lacks merit, both factually and legally. Cornerstone argues that Berkshire Hathaway is attempting to unilaterally modify the terms of its independent contractor agreement it had with Mr. Seipp. There is no evidence in the record to support this argument. In fact, the cases Cornerstone relies upon to support its "*bootstrapping*" argument actually favor Berkshire Hathaway's position. For example, in Security Watch, Inc. v. Sentinel Systems, Inc., a United States Court of Appeals for the 6th Circuit case, the court held that, "*[h]ad the parties intended to apply the new ADR processes to disputes arising under the previous contracts, we believe they would have done so explicitly.*" 176 F.3d 369, 374 (6th Cir. 1999). In that case, the parties had a dispute over which dispute resolution provision would apply. *Id.* at 370. In 1993, the parties executed an agreement which provided that disputes would be resolved in state or federal courts. *Id.* The next year, the parties

entered into an agreement that provided that disputes would be resolved by alternative dispute resolution. *Id.* The court found that disputes arising under the pre-1994 contracts were not governed by ADR because if the parties intended that result, it would have been explicit. *Id.* at 374. Here, the CBA arbitration provision explicitly incorporates the ADR process into disputes arising prior to a party becoming a CBA member. (CP 30-32). It is important to note that here, at all times relevant to the present dispute, Cornerstone was a CBA member with a duty and agreement to submit all disputes involving commission to CBA arbitration. (CP 20-22, 24, 30-32). Thus, due to the explicit provision in the CBA arbitration agreement, all disputes involving commission, even those arising prior to one party becoming a CBA member, are subject to binding CBA arbitration. (CP 30-32).

In *Thomas v. Carnival Corp.*, a seaman sued his former employer over injuries he sustained when he slipped and fell while working on a cruise ship. 573 F.3d 1113, 1115 (11th Cir. 2009). One issue before the court was whether a treaty enforced through the U.S. Federal Arbitration Act (“FAA”) controlled dispute resolution of the seaman’s claims against his former employer. *Id.* at 1117. Ultimately, the court held that the

arbitration clause requiring arbitration in the Philippines under Panamanian law was null and void, as it related to the employee's Seaman's Wage Act Claim. *Id.* at 1124. In making that decision, the court reasoned that, "*we find that the New Agreement was not intended to be retroactive such that it supersedes any previous agreements. In contract interpretation, we can glean intent not only from what is said but what is not said. The New Agreement, which was quite thorough, notably did not specify that disputes arising out of or in connection with this or any previous Agreement, including . . . We think if the parties had intended retroactivity, they would have explicitly said so.*" *Id.* at 1119 (internal quotations omitted).

The CBA arbitration provision provides for retroactive application on its face: "*[t]he foregoing includes controversies which arose prior to one of the parties becoming a member.*" (CP 32). Cornerstone relies on *Weiss v. Lonquist*, arguing that any dispute arising prior to Berkshire Hathaway becoming CBA members is not subject to arbitration despite the fact that this position is inapposite to the express terms of the CBA arbitration provision. 153 Wn. App. 502 (2009). (Respondent's Brief, pp. 30-31). In *Weiss*, the court held that the parties did not renew their

employment agreement that contained an arbitration agreement after it terminated and thus, claims arising after that contract terminated were not subject to the terminated contract's arbitration clause. *Id.* at 512-15. Thus, unlike *Weiss*, this is not a dispute over an employment contract containing an arbitration provision. Here, at all times relevant hereto, Cornerstone was a CBA member who undertook a duty and agreed to submit all controversies involving commission to CBA arbitration, and the express terms of the broad arbitration clause at issue provides for retroactive application – it includes controversies that arose prior to one party becoming a CBA member. (CP 20-22, 25, 30-32). Moreover, Berkshire Hathaway had a history of CBA membership. (CP 242-43). And, it renewed its CBA membership when Mr. Seipp joined Berkshire Hathaway because it again had a commercial real estate broker working under it and needed access to the CBA forms and database.

The present dispute must be submitted to valid and binding CBA arbitration, as the CBA arbitration provision explicitly provides that ALL controversies involving commission must be submitted to CBA arbitration, even those that accrued prior to one party becoming a CBA member. (CP 30-32).

Cornerstone became a CBA member long before it had a dispute with Berkshire Hathaway, agreeing and undertaking a duty to abide by the CBA bylaws. Thus, Cornerstone's "bootstrapping" argument fails both legally and factually.

B. All Of Cornerstone's Claims Arose Out Of The Same Transaction or Occurrence, Thus All Are Subject To CBA Arbitration.

All of Cornerstone's claims against Berkshire Hathaway are within the broad scope of the CBA arbitration provision. Its claims arise out of the same transaction or occurrence, the sale of the Property, the commission Berkshire Hathaway earned as a result of its sale of the Property, and in the unlikely event Cornerstone is able to establish its claims that Berkshire Hathaway may be liable for actions involving other sales of commercial real property – all claims arise out of and involve a dispute over commission. (CP 468-79). Thus, all of its claims against Berkshire Hathaway are subject to binding CBA arbitration. (CP 30-32).

Washington strongly favors arbitration. See e.g., Zuver v. Airtouch Communications, Inc., 153 Wn.2d 293 (2004). When a valid arbitration agreement contains broad language, "*all disputes are to be resolved in favor of arbitrability.*" Wiese v. Cach, LLC, 189 Wn. App. 466, 477 (2015). Likewise, "*when a complaint*

contains both arbitrable and nonarbitrable claims, the [FAA] requires courts to compel arbitration of pendent arbitrable claims when one of the parties files a motion to compel, even where the result would be the possible inefficient maintenance of separate proceedings in different forums.” Id. at 479 (quoting KPMG LLP v. Cocchi, 565 U.S. 18, 22 (2011)).

Washington’s Uniform Arbitration Act is intended to “*incorporate the holdings of the vast majority of state courts and the law that has developed under the FAA. . .*” Townsend v. Quadrant Corp., 173 Wn. App. 451, 457 (2012). Thus, when a party moves to compel arbitration and pendent arbitrable claims exist, arbitration must be compelled. *Id.* Pendent claims are those that arise from the same transaction or occurrence. Black’s Law Dictionary, (10th ed. 2014). Here, Cornerstone does not dispute the validity of the CBA arbitration provision, and Division I already decided that the same CBA arbitration provision is a broad arbitration clause that is valid and binding upon all voluntary CBA members. Marcus & Millichap, 162 Wn. App. at 481. And, Cornerstone’s claims arise out of the same transaction or occurrence, Berkshire Hathaway’s sale of the Property, commission earned, and potentially, entitlement to commission

for future sales of real property. (CP 468-479). Therefore, all of Cornerstone's claims fall within the broad scope of the CBA arbitration provision, on their own accord or because they are pendent claims. Washington law requires that arbitration be compelled because all of Cornerstone's claims arise out of the same transaction or occurrence, Berkshire Hathaway's sale of the Property, the commission it earned as a result of that sale, and in the event Cornerstone is able to identify any other transaction it asserts an interest in, the commission arising from that sale as well. (CP 468-79).

C. The Present Dispute Over Commission Is Subject to CBA Arbitration, Regardless Of The Independent Contractor Agreement.

Cornerstone urges the Court to rely upon Todd v. Venwest Yachts, Inc., arguing that “[t]he CBA similarly does not purport to regulate its member’s businesses. The CBA is likewise not concerned with its member’s employment relationship.” (Respondent’s Brief, p. 28); 127 Wn. App. 393 (2005), review denied, 156 Wn.2d 1025 (2006). As set forth in Cornerstone’s brief, Todd arose out of a dispute between an employer and an employee. (Respondent’s Brief, p. 26). Yet, this case deals with a dispute between two brokerages over which brokerage is entitled

to commission and does not involve an employment relationship. (CP 468-79).

In Todd, Division I held that an arbitration provision found in the bylaws of a voluntary organization does not become part of an ***employment relationship*** in the absence of an intent that the ***employment relationship*** be bound thereby. 127 Wn. App. at 399. There, an employee sued his former employer for commissions he alleged he was owed. Id. at 395. The employer moved to dismiss, arguing that the employee was required to arbitrate his dispute according to the bylaws of the Northwest Yacht Broker's Association ("NYBA"), a voluntary organization that both the employer and employee were members of. Id. The NYBA bylaws stated, "[w]hen a dispute arises between members, between members and a nonmember, or between members and the public" the dispute shall be arbitrated. Id. at 396. However, the Todd court specifically determined that the parties did not intend to be bound by the NYBA in their ***employment relationship***. Id. Thus, the Todd court held that the NYBA arbitration clause was not a required component of a NYBA's employment relationship. Id. Not only is this case distinguishable

from the facts at hand, but Marcus & Millichap is controlling and directly on point with the issues of the present case.

In 2016, Division I decided Marcus & Millichap. There, Marcus & Millichap, a brokerage firm, (“M&M”) executed an exclusive listing agreement with the seller of an apartment complex. 192 Wn. App. at 469. At the time, Yates, Wood & MacDonald (“Yates”), a brokerage firm and property management company, had been managing the apartment complex. Id. at 469-70. M&M marketed the property, but did not list it with the CBA or any other multiple listing service. Id. at 470. As a result of M&M’s efforts the owner accepted an offer, and M&M received a commission from the sale. Id. M&M and Yates were both members of the CBA. Id. As set forth by the Marcus & Millichap court, the CBA bylaws contain an arbitration provision requiring arbitration of commission disputes arising among or between CBA members:

A. Duty to Arbitrate. It is the duty of the members of this Association (and each so agrees) to submit all controversies involving commission, between or among them to binding arbitration by the Association, rather than [sic] to bring a suit to law. The foregoing includes controversies which arose prior to one of the parties becoming a member.

The term commissions as used above means commission or fees arising from the real estate

brokerage business as the same is now or in the future defined in RCW 18.85.010(1); together with interest and out-of-pocket costs or expenses related thereto. The terms shall include commission or fees actually paid, as well as commissions or fees lost as a result of the acts of another member.

Accordingly, no members may institute legal action involving such a controversy against any other member without the prior approval of the Board of Directors.

Id. at 470-71 (emphasis added). There, interpretation of the foregoing provision was central to the appeal. Id. at 471.

Yates sought half of the commission earned by M&M and initiated arbitration proceedings. Id. M&M filed a declaratory judgment against Yates alleging that no arbitration agreement existed. Id. Relying on Keith Adams & Assoc., Inc. v. Edwards, 3 Wn. App. 623, 626 (1970), disapproved on other grounds, by Godfrey v. Hartford Cas. Ins. Co., 142 Wn.2d 885 (2001), the court held that the parties' voluntary membership in the CBA constituted a binding agreement to arbitrate the parties' dispute over commission pursuant to the CBA bylaws. Id. at 476. Thus, the Marcus & Millichap court affirmed the trial court's decision, finding that the CBA bylaw arbitration provision governed the commission dispute, and that the trial court properly dismissed the lawsuit. Id. at 482.

In no uncertain terms, the Marcus & Millichap court declared that the UAA governs the validity of arbitration agreements, and that the language of the CBA arbitration provision is broad, requiring all matters involving commission related disputes between CBA members to be arbitrated. 192 Wn. App. at 474, 480-81. Furthermore, the Marcus & Millichap court found that Division III's decision in Keith Adams controlled the outcome of that case. Id. at 476. Consequently, Todd, a case involving an employment dispute between an employer and employee does not control the outcome of this case.

Just like the commission dispute in Marcus & Millichap, here, Berkshire Hathaway entered into an exclusive listing agreement with the seller of the Property. (CP 391-94, 402-04). Likewise, Berkshire Hathaway did not list the property with the CBA. (CP 202). And, just as in Marcus & Millichap, a third party, Cornerstone, asserts a right to the commission for the sale of the Property. Cornerstone alleged it was entitled to any commission earned by Berkshire Hathaway from the sale of the Property prior to September 2015, and it continues to maintain that it is entitled to the commission earned by Berkshire Hathaway. (CP 468-479). Consequently, as the nearly indistinguishable case, exactly on

point with the present commission dispute, Marcus & Millichap controls the outcome of this case. The CBA bylaw arbitration provision is valid, binding on the parties, and its broad scope covers the present dispute involving commission. Therefore, arbitration must be compelled.

D. Arbitration Is The Proper Method to Resolve The Parties' Commission Dispute.

Cornerstone provides three unavailing reasons why Berkshire Hathaway and Mr. Lewis should be required to litigate the current commission dispute. As set forth herein, the parties' memberships in CBA require that the present dispute between them over the commission Berkshire Hathaway earned from the sale of the Property must be submitted to CBA arbitration. (CP 30-32). The following arguments fail on their face:

- 1. Cornerstone undertook a duty and agreed to submit all controversies involving commission to binding CBA arbitration, rather than to file suit.**

The present dispute involving commission between CBA members must be submitted to CBA arbitration, whether or not the dispute arose prior to one party of the dispute becoming a CBA member. (CP 30-32). Cornerstone argues that its claims against Berkshire Hathaway accrued prior to the time Berkshire Hathaway

became a CBA member. (Respondent's Brief, p. 32-33). As set forth above, upon becoming a CBA member, Cornerstone undertook a duty to and agreed to submit all disputes involving commission, even those that arose prior to one party becoming a CBA member, to CBA arbitration. (CP 30-32). Furthermore, it is worth noting that Berkshire Hathaway had been a CBA member in the past and had simply let its membership lapse. (CP 242-43). When Berkshire Hathaway hired a commercial broker, Mr. Seipp, it then renewed its CBA membership. *Id.* There is no evidence that this was done in an attempt to avoid unknown, future litigation. When Berkshire Hathaway, Mr. Lewis, and Mr. Seipp became CBA members, there was no reason to believe that litigation would ensue over the sale of the Property, as it was the only brokerage with an exclusive listing agreement with the seller. Likewise, Berkshire Hathaway did not have any reason to believe that a dispute with Cornerstone would ensue. Thus, the valid and binding CBA arbitration clause must be enforced and arbitration compelled.

2. The principles of agency do not require Berkshire Hathaway and Mr. Lewis to litigate their commission dispute with Cornerstone.

Berkshire Hathaway and Mr. Lewis are not bound to litigate the present dispute. Cornerstone relies upon Powell v.

Sphere Drake Ins. P.L.C., 97 Wn. App. 890 (1999), arguing that Berkshire Hathaway and Mr. Lewis are bound by the resolution procedure outlined in Mr. Seipp's contract with Cornerstone because of the legal theory of agency. (Respondent's Brief pp. 33-37). However, Powell does not stand for this supposition.

In Powell, a seaman sued the owners of the vessel he was working on when he suffered an injury. 97 Wn. App. at 892. After obtaining a judgment and finding that the owner had no assets to satisfy the judgment, he sued the owners' insurer. Id. at 893. The insurance contract between the owner and the insurer contained a mandatory arbitration clause. Id. The issue before the court was whether the seaman, who was not a party to the insurance contract, was required to arbitrate his claims against the insurer. Id. at 894. The Powell court held that the seaman was not required to arbitrate his claims because his claims were statutory claims not based on the insurance policy itself. Id. at 895-96. And, as pointed out by Cornerstone, the Powell court asserted that “[w]hen a nonsignatory plaintiff bases its right to sue on the contract, rather than an independent basis such as a statute or some other theory outside the contract, the provision requiring arbitration must be observed.” (Respondent's Brief, p. 34).

Here, Berkshire Hathaway seeks to ensure that the valid and binding CBA arbitration clause is enforced. (CP 42-55). It has not asserted any counterclaims and does not have any claims against Cornerstone arising out of Mr. Seipp's independent contract agreement with Cornerstone. (CP 481-88). Furthermore, Cornerstone asserts claims against both Berkshire Hathaway and Mr. Lewis that do not arise out of its contract with Mr. Seipp. (CP 473-77). Cornerstone argues that Berkshire Hathaway and Mr. Lewis, who are not parties to Mr. Seipp's independent contractor agreement, violated it and must litigate that alleged breach pursuant to the terms of that agreement. (Respondent's Brief, p. 36). This argument is entirely nonsensical. In its First Amended Complaint, Cornerstone asserts independent claims entirely unrelated to the independent contractor agreement against Berkshire Hathaway and Mr. Lewis: unjust enrichment, tortious interference with business relations, violation of Uniform Trade Secrets Act, conversion, and civil conspiracy. (CP 473-77). Consequently, the Powell case is not applicable to the case at hand and does not stand for the proposition that Cornerstone has the right to compel litigation based upon agency principals.

Cornerstone does not point to any case law that supports this argument, and it should be ignored.

3. Equitable estoppel does not require Berkshire Hathaway and Mr. Lewis to litigate their commission dispute with Cornerstone in court.

Berkshire Hathaway and Mr. Lewis are not equitably estopped from enforcing the arbitration provision of the CBA bylaws. Cornerstone relies upon Townsend v. Quadrant Corp., 173 Wn.2d 451 (2012), to support its argument that Berkshire Hathaway and Mr. Lewis should be equitably estopped from compelling arbitration because the contract between Mr. Seipp and Cornerstone provides for litigation as the dispute resolution procedure. (Respondent's Brief, p. 37). In order to establish equitable estoppel, Cornerstone must show by clear, cogent, and convincing evidence that: (1) Berkshire Hathaway and Mr. Lewis said or did something on which it relied; (2) that it relied on Berkshire Hathaway or Mr. Lewis's statement or conduct; and (3) that it would be injured if Berkshire Hathaway or Mr. Lewis were allowed to contradict that statement or conduct now. Berschauer/Phillips Const. Co. v. Seattle Sch. Dist. No. 1, 124 Wn.2d 816, 831 (1994); WPI § 302.05. Cornerstone altogether fails to address what conduct or words of Berkshire Hathaway

and/or Mr. Lewis that it relied upon to its detriment. (Respondent's Brief, pp. 37-39).

In Townsend, the Supreme Court of Washington found that equitable estoppel applied to impose a Purchase and Sale Agreement's arbitration clause upon the children of manufactured home purchasers who asserted identical causes of action as their parents against the seller arising out of the Purchase and Sale Agreement. 173 Wn.2d at 461. The children received the same benefit of the bargain as their parents because they lived in the homes with their parents. Id. at 461-62. The Townsend court found that the children knowingly exploited the terms of the contract because their claims were identical to those of their parents whose claims arose directly out of their contracts with the seller. Id. at 462. Therefore, the children could not avoid the arbitration clause within it. Id. There is entirely no evidence to support Cornerstone's contention that Berkshire Hathaway and Mr. Lewis exploited or in any way benefited from the contract between Cornerstone and Mr. Seipp.

Furthermore, the Townsend case is not applicable to the facts at hand — as set forth above, the majority of the causes of action Cornerstone asserted against Berkshire Hathaway arose

independently of the independent contractor agreement. (CP 473-77). All of Cornerstone's claims against Berkshire Hathaway arise out of the dispute over the commission earned from the sale of the Property, and as Cornerstone alleges, commission on the sale of other properties unidentified by Cornerstone. *Id.* Only two of the seven causes of action relate to the independent contractor agreement. *Id.* Thus, Berkshire Hathaway is not equitably estopped from compelling arbitration given the facts of this case. Here, Berkshire Hathaway seek to compel arbitration based upon the express terms of the CBA bylaws.

Neither the principles of agency nor equitable estoppel prevent Berkshire Hathaway from compelling CBA arbitration. Therefore, as this dispute centers on the parties' claims to the commission for the sale of the Property, arbitration must be compelled.

E. The CBA Arbitration Is Broad, As A Matter Of Law.

Cornerstone cannot ignore that Division I already determined that the CBA arbitration provision is broad. The Marcus & Millichap court declared that, "***[t]he language of the CBA arbitration provision is broad. . . [t]he bylaw contains no requirement that the commission dispute involve the***

CBA or its multiple listing services. Thus, the arbitration agreement governs the commission dispute” 192 Wn. App. at 481 (emphasis added). When a valid arbitration provision includes broad language, “*all doubts are to be resolved in favor of arbitrability.*” Wiese, 189 Wn. App. at 477 (quoting Simula, Inc. v. Autoliv, Inc., 175 F.3d 716, 721 (9th Cir. 1999)(finding that the claims in the complaint need only “*touch matters*” covered by the agreement containing the arbitration provision)).

As explained in detail above, the case law relied upon by Cornerstone is neither directly on point nor does it contradict or call into question the clear and absolute holding of Marcus & Millichap, which in no uncertain terms declares that the CBA bylaw arbitration provision is valid, is broad in scope, and that CBA members must arbitrate all controversies involving commission, even if such a dispute arose prior to the party becoming a CBA member. Ultimately, even if Cornerstone points to another sale of commercial real property as the basis for its claims against Berkshire Hathaway, the issue to be decided will still be which brokerage is entitled to the commission for the sale of the property? Thus, arbitration must be compelled.

II. CONCLUSION

The trial court erred when it denied Berkshire Hathaway's Motion to Dismiss and Motion to Compel Arbitration. Berkshire Hathaway respectfully requests that this Court reverse the trial court's denial of its Motion to Dismiss and Compel Arbitration, and compel arbitration.

DATED this 13th day of February 2017.

PISKEL YAHNE KOVARIK, PLLC



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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of February 2017, a true and correct copy of the foregoing document was served by the method indicated below to the following parties:

<input checked="" type="checkbox"/>	HAND DELIVERY	Matthew T. Ries
<input type="checkbox"/>	U.S. MAIL	Stamper Rubens, P.S.
<input type="checkbox"/>	OVERNIGHT MAIL	720 West Boone, Suite 200
<input type="checkbox"/>	FAX TRANSMISSION	Spokane, WA 99201
<input type="checkbox"/>	EMAIL	

Crystal Balcom
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