

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

WACO FUNCTIONAL MEDICINE, P.A.,
d/b/a BRAZOS INTEGRATIVE MEDICINE
and LISA KIRK, D.O.

CIVIL ACTION

v.

NO. 17-01208

HEARTWISE CLINIC, L.L.C.

SECTION: "N" - KDE -KWR

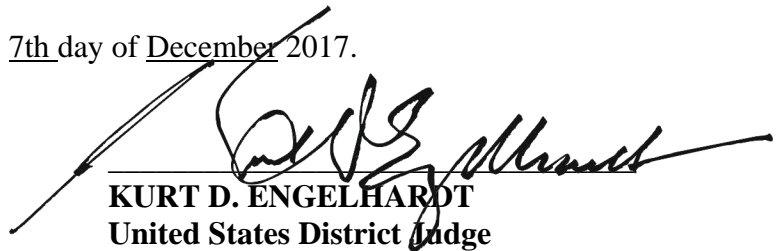
ORDER AND REASONS

Presently before the Court is "Defendant's Motion to Dismiss Plaintiff's Claims with Prejudice Pursuant to FED. R. CIV. P. 12(b)(1) and/or 12(B)(6), or, Alternatively Stay Proceedings and Compel Arbitration." On the instant showing made, **IT IS ORDERED** that the motion (Rec. Doc. 6) is **DENIED**. Specifically, Defendant Heartwise Clinic, L.L.C., has not provided the Court with a properly authenticated arbitration agreement entered into by itself and Plaintiffs and Plaintiffs contest signing the document attached as Exhibit "A" (Rec. Doc. 6-3) to Defendant's motion. Defendant, despite having had adequate opportunity to do so, has not provided an affidavit or sworn declaration authenticating the document as the alleged arbitration agreement between the parties to this action. Nor has Defendant submitted any other admissible document reflecting the existence of an arbitration agreement between the parties to this action. Additionally, Defendant's submissions do not include an order from the arbitration panel in the American Arbitration

Association (AAA) arbitration proceeding referenced by Defendant formally adding Plaintiffs as parties to that proceeding. The Court likewise is unaware of the current status of that proceeding, including whether it has concluded or remains pending, the status of discovery, and whether an arbitration hearing has been held or presently is scheduled to be held. Accordingly, the Court is presently unable to provide Defendant with the relief requested by its motion.

Given the foregoing, **IT IS FURTHER ORDERED** that Plaintiffs' "Motion to Strike Exhibits filed by Heartwise Clinic, LLC" (Rec. Doc. 7) is **DENIED** as **MOOT**.

New Orleans, Louisiana, this 7th day of December 2017.



KURT D. ENGELHARDT
United States District Judge