

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**DANA J. WRIGHT, LLC,**

**Plaintiff,**

v.

**RODNEY KINCAID,**

**Defendant.**

**Case No. 2:15-cv-2443**

**CHIEF JUDGE EDMUND A. SARGUS, JR.**

**Magistrate Judge Kimberly A. Jolson**

**OPINION AND ORDER**

Pending before the Court is Defendant Rodney Kincaid's Motion to Dismiss [ECF No. 7]. Defendant requests dismissal because Plaintiff Dana J. Wright, LLC allegedly signed a Memorandum of Understanding in which the parties agreed to arbitrate the dispute at issue. (Mot. to Dismiss at PageID 20–21.)<sup>1</sup> Plaintiff contends that it never entered into the Memorandum of Understanding and never agreed to arbitrate the dispute. (Mem. in Opp'n at 1 [ECF No. 9].)

On August 15, 2016, the Court held a telephonic status conference. The following day, and as discussed during the conference, the Court set an evidentiary hearing for November 9, 2016 on the issue of whether the parties entered into an arbitration agreement. (Aug. 16, 2016 Order at 1 [ECF No. 18].) The parties requested additional time to conduct discovery on that issue, and the Court directed them to complete that discovery by October 14, 2016. (*Id.*)

Defendant's Motion to Dismiss hinges on whether the parties entered into the Memorandum of Understanding and agreed to arbitrate their dispute. The parties will present

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<sup>1</sup> Defendant also argues for dismissal based on the parties' alleged agreement in the Memorandum of Understanding that Canadian law governs their dispute. (Mot. to Dismiss at PageID 20.)

evidence on that issue during the November 9 evidentiary hearing. Accordingly, Defendant's Motion to Dismiss [ECF No. 7] is **DENIED AS MOOT**, subject to refiling following the November 9 hearing.

**IT IS SO ORDERED.**

8-31-2016  
DATE

  
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**EDMUND A. SARGUS, JR.**  
**CHIEF UNITED STATES DISTRICT JUDGE**