

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JUDITH HOLTZMAN,

Plaintiff,
v.

CREDIT ONE BANK, N.A.,

Defendant.

ORDER

17-cv-425-jdp

Plaintiff Judith Holtzman is suing defendant Credit One Bank, N.A. under the Telephone Consumer Protection Act for allegedly using an automatic telephone dialing system to call her without her consent. Credit One has filed a motion under 9 U.S.C. §§ 3 and 4 to compel arbitration and dismiss the case. Dkt. 10. In response, Holtzman concedes that her claim is subject to an arbitration agreement, but she asks the court to stay rather than dismiss the case.

Holtzman is correct that the general rule in this circuit is to stay rather than dismiss a case pending arbitration. *Halim v. Great Gatsby's Auction Gallery, Inc.*, 516 F.3d 557, 561 (7th Cir. 2008). But this court has recognized an exception to that rule “[w]hen all of the claims raised in a lawsuit are subject to arbitration. . . . In that event, a dismissal is appropriate because there is nothing for the court to decide unless and until a party seeks confirmation of or challenges the arbitrators’ award.” *Olstad v. Chase Auto Fin. Corp.*, No. 17-cv-236, 2018 WL 501611, at *3 (W.D. Wis. Jan. 22, 2018). Because the entire case is subject to arbitration and Holtzman does not identify any prejudice she will suffer as a result of dismissal, the court will grant Credit One’s request to dismiss. If either side wishes to confirm or challenge the

arbitration decision at the conclusion of the proceedings, that party may move to reopen the case then.

ORDER

IT IS ORDERED that:

1. Defendant Credit One Bank, N.A.'s motion to compel arbitration and dismiss the case, Dkt. 10, is GRANTED, and the case is DISMISSED without prejudice.
2. The clerk of court is directed to enter judgment accordingly.

Entered March 6, 2018.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge