2026 IL App (1st) 252336-U
No. 1-25-2336
Order filed November 13, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23 and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

FIFTH DIVISION

DEBORAH EAVES-BIGGERMAN, Plaintiff-Appellee,

v.

CHARLES SCHWAB & CO., INC., Defendant-Appellant

Appeal from the Circuit Court of Cook County.
Honorable Maire Aileen Dempsey, Judge, Presiding.
No. 2025L004925

JUSTICE WILSON delivered the judgment of the court.
Presiding Justice Oden Johnson and Justice C.A. Walker concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court's order denying defendant's motion to compel arbitration without prejudice is reversed, and the cause is remanded with directions to decide the motion on the merits.

¶ 2 Defendant-appellant Charles Schwab & Co., Inc. (Schwab) appeals from an order of the circuit court of Cook County denying its motion to compel arbitration of the claims brought by plaintiff-appellee Deborah Eaves-Biggerman. This is an interlocutory appeal as of right under Illinois Supreme Court Rule 307(a)(1) (eff. Nov. 1, 2017), because an order granting or denying a motion to compel arbitration is injunctive in nature. *Morris v. TrueAccord, Inc.*, 2025 IL App (1st)

250706 ¶ 9. Eaves-Biggerman has not filed a brief in this court. For the reasons that follow, we reverse and remand with directions.

¶ 3 I. BACKGROUND

¶ 4 We take the following alleged facts from the record and from the brief filed by Schwab. Schwab is a nationwide financial services firm that provides investment and brokerage services. Eaves-Biggerman became a customer of Schwab around May 2020, when she opened accounts with the firm. In opening the accounts, plaintiff accepted and agreed to be bound by the Schwab account agreement, which contains an arbitration provision.

¶ 5 The arbitration provision states that the parties are "giving up the right to sue each other in court, including the right to a trial by jury," and provides that,

> "[a]ny controversy or claim arising out of or relating to (i) this Agreement, [or] any other agreement with Schwab[;] *** (ii) the Account, any other Schwab account or Services; (iii) transactions in the Account or any other Schwab account; (iv) or in any way arising from the relationship with Schwab *** including any controversy over the arbitrability of a dispute, will be settled by arbitration."

¶ 6 Eaves-Biggerman filed her original complaint on April 10, 2025, and her first amended complaint on September 17, 2025. The amended complaint alleges counts for assault and malicious prosecution arising from incidents at two separate Schwab branches in April and May of 2023. Eaves-Biggerman alleges that during both incidents Schwab denied that she had any accounts and refused to accept her deposit. During both incidents, Eaves-Biggerman was removed from the Schwab branch by the Chicago Police Department. The second removal resulted in her arrest and a charge of criminal trespass that was later stricken with leave to reinstate.

¶ 7 On May 29, 2025, Schwab moved to compel arbitration under the Illinois Uniform

Arbitration Act (Act) (710 ILCS 5/1 *et seq.* (West 2020)) and the Federal Arbitration Act (9 U.S.C. § 1 *et seq.* (2018)). In support, Schwab submitted evidence that plaintiff opened accounts with Schwab on May 26, 2020, and accepted the account agreement containing the arbitration provision.

¶ 8 The circuit court denied the motion, without prejudice and without holding a hearing. The court did not determine whether a valid arbitration agreement existed or whether Eaves-Biggerman's claims fell within the scope of that agreement. Instead, in an email to the parties, the court explained: "In light of the PLA being granted in *Geller*, all motions to compel arbitration are being denied without prejudice pending ruling by the Supreme Court." The circuit court was referring to this court's decision in *Geller v. Uber Technologies, Inc.*, 2025 IL App (1st) 241458-U, in which our supreme court had allowed a petition for leave to appeal.

¶ 9 The court's email also directed the parties to prepare an order denying the motion without prejudice, "granting Plaintiff 28 days to answer" and setting a status on the pleadings. The circuit court entered the order denying the motion without prejudice October 20, 2025. At the following status hearing, the court denied Schwab's oral motions to stay the proceedings and to amend the October 20, 2025, order. Schwab timely filed this interlocutory appeal pursuant to Illinois Supreme Court Rule 307(a)(1) (eff. Nov. 1, 2017).

¶ 10 II. ANALYSIS

¶ 11 As a preliminary matter, Eaves-Biggerman has not filed an appellee's brief. We nonetheless decide the appeal on its merits. We will not reverse a trial court's judgment *pro forma* simply because the appellee has not filed a brief; rather, where the record is simple, and the claimed errors can be decided without the aid of an appellee's brief, or where the appellant's brief demonstrates *prima facie* reversible error that finds support in the record, we will decide the appeal. *First Capitol*

Mortgage Corp. v. Talandis Construction Corp., 63 Ill. 2d 128, 131 (1976). The record here is straightforward, and the claimed error is readily resolved, so we proceed to the merits.

¶ 12 Our review of an order denying a motion to compel arbitration that was entered without an evidentiary hearing is *de novo*. *Hollingshead v. A.G. Edwards & Sons, Inc.*, 396 Ill. App. 3d 1095, 1099 (2009). A motion to compel arbitration presents a narrow inquiry: (1) whether the parties have a valid written agreement to arbitrate and (2) if so, whether the dispute falls within the scope of that agreement. *TrueAccord*, 2025 IL App (1st) 250706 ¶ 10. The party seeking to compel arbitration bears the burden of establishing both. *Id*. Whether to compel arbitration is not a matter of discretion; where a valid arbitration agreement exists, and the parties' dispute falls within its scope, arbitration is mandatory, and the court must compel it. *Hollingshead v. A.G. Edwards & Sons, Inc.*, 396 Ill. App. 3d 1095, 1102 (2009).

¶ 13 The Illinois Uniform Arbitration Act embodies a policy favoring the enforcement of agreements to arbitrate. *Donaldson, Lufkin & Jenrette Futures, Inc. v. Barr*, 124 Ill. 2d 435, 443 (1988). Section 1 of the Act provides that a written agreement to arbitrate "is valid, enforceable and irrevocable save upon such grounds as exist for the revocation of any contract[.]" 710 ILCS 5/1 (West 2020). If one party can show the existence of a written agreement described in section 1, and the opposing party refuses to arbitrate, "the court shall order the parties to proceed with arbitration," and if the opposing party denies the existence of the agreement, "the court shall proceed summarily to the determination of the issue so raised." 710 ILCS 5/2(a) (West 2020).

¶ 14 As a threshold matter, the circuit court is required to decide whether a valid arbitration agreement existed between the parties and, if so, whether plaintiff's claims fell within its scope. *TrueAccord*, 2025 IL App (1st) 250706 ¶ 10. The trial court did neither. It did not find that an agreement existed or that one did not; it did not address the scope of the account agreement's

arbitration provision; and it did not rule on whether plaintiff's claims for assault and malicious prosecution arising out of her account relationship with Schwab were within the scope of the arbitration agreement. Instead, the court denied the motion without prejudice on the sole ground that our supreme court had allowed a petition for leave to appeal in *Geller*, "pending ruling by the Supreme Court."

¶ 15 That was error. Where, as the statute contemplates, a motion to compel places the existence of an arbitration agreement before the court, "the court shall proceed summarily" to determine the issue. 710 ILCS 5/2(a) (West 2020). Where the court identifies the issues of concern but "fails to make a substantive determination of the issues so raised, there is not a sufficient showing to sustain the court's order denying the motion to compel arbitration." *Herns v. Symphony Jackson Square LLC*, 2021 IL App (1st) 201064 ¶ 31. The circuit court here did not merely leave the threshold questions unresolved—it did not address them at all, and it offered no explanation of why or how the pending appeal in *Geller* materially affected the existence or scope of the parties' arbitration agreement. Neither the court's email nor its order identified any issue in *Geller* that controlled, or even bore upon, the questions presented by Schwab's motion. To add insult to injury, the circuit court ordered the parties to proceed with the expense of litigation.

¶ 16 We recognize that a circuit court possesses inherent authority to stay proceedings before it as an incident of its power to control the disposition of the cases on its docket, and that the decision to grant or deny a stay is reviewed for an abuse of discretion. *Vasa North Atlantic Insurance Co. v. Selcke*, 261 Ill. App. 3d 626, 629 (1994). A stay pending the resolution of a related case in a higher court may be entirely proper where the pending case and the case to be stayed involve the identical issue, such that the higher court's decision will govern the matter held in abeyance. *Id.* Had the circuit court genuinely concluded that an impending decision in *Geller* would control an

issue dispositive of Schwab's motion, the better practice would have been to stay the proceedings pending the outcome in *Geller* rather than to deny the motion outright and set the case for litigation on the pleadings.

¶ 17 On this record, however, even a stay may have been an abuse of discretion. We note that Schwab made an oral motion to stay the proceedings, which the circuit court denied. The party seeking a stay bears the burden of proving it is justified. *Kaden v. Pucinski*, 263 Ill. App. 3d 611, 615 (1994). Specifically, the party seeking a stay must show (1) what hardship or inequity it will face if the stay is denied; and (2) that such hardship outweighs the potential harm against the party opposing the stay. *Id.* at 616. A stay is properly denied where, weighing the relevant criteria and given the abuse of discretion standard, the stay would merely cause delay without adequate justification. *Id.* at 618. Here, neither the circuit court nor Schwab identified how any issue in *Geller* was controlling, or even relevant, to the existence or scope of the arbitration agreement. The record reflects that in the briefing on the motion to compel arbitration, neither party cited *Geller* nor raised any argument regarding unconscionability, delegation, or any other issue present in that case. *Geller* focused on the narrow question of whether parties clearly and unmistakably delegated arbitrability of a wrongful death claim, which is materially different from the factual and legal circumstances here involving a standard brokerage account agreement and claims of assault and malicious prosecution. *Geller v. Uber Technologies, Inc.*, 2025 IL App (1st) 241458-U, *rev'd*, 2026 IL 132066. And Eaves-Biggerman, as appellee, has filed no brief in this court identifying any such issue. Absent any showing that *Geller* bore on the specific questions before the court, there was likely no basis on which the court reasonably could have deferred ruling, whether by denial without prejudice or by stay.

¶ 18 In any event, whatever concern the pendency of *Geller* may once have presented has now

been abated. Our supreme court has since issued its decision in that case. See *Geller v. Uber Technologies, Inc.*, 2026 IL 132066. The court resolved the appeal on the narrow ground that the parties had not clearly and unmistakably agreed to delegate the arbitrability of the wrongful death claims at issue, and it accordingly did not reach the question of unconscionability. *Id.* ¶ 18. Notably, our supreme court faulted the lower court for failing to address, "as a threshold matter," the foundational question before it, explaining that a court "must resolve that foundational question before referring any matter to an arbitrator." *Id.* ¶ 18, 60. If anything, then, *Geller* reinforces the circuit court's obligation to decide the threshold arbitration questions presented to it rather than to defer them. With *Geller* decided, there remains no impediment—real or supposed—to the circuit court's resolution of Schwab's motion to compel arbitration on its merits.

¶ 19 Because the circuit court denied Schwab's motion without deciding the questions presented by the motion to compel arbitration, section 2(a) of the Act requires us to reverse and remand for the court to conduct a summary proceeding and make a decision on the merits. 710 ILCS 5/2(a) (West 2020); *Herns*, 2021 IL App (1st) 201064 ¶ 17 (reversing denial of a motion to compel arbitration based on the existence of outstanding issues of fact and remanding for a summary proceeding). We express no opinion on the ultimate merits of the motion, that is, whether a valid arbitration agreement exists or whether plaintiff's claims fall within its scope. Those questions are for the circuit court to decide in the first instance on remand.

¶ 20 III. CONCLUSION

¶ 21 For the foregoing reasons, we reverse the order of the circuit court of Cook County denying Schwab's motion to compel arbitration, and we remand the cause with directions that the circuit court decide the motion on its merits.

¶ 22 Reversed and remanded with directions.