

NOTICE
Decision filed 08/20/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 260375-U
NO. 5-26-0375
IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

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

PRESTIGE FINANCIAL SERVICES, INC.,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	St. Clair County.
	)	
v.	)	No. 25-AR-370
	)	
KENYA STUCKEY,	)	Honorable
	)	Patrick R. Foley,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE BOLLINGER delivered the judgment of the court.
Justices Barberis and Hackett concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not err in denying the defendant’s motion to stay proceedings and compel private arbitration, where the defendant waived her contractual right to compel private arbitration, and failed to properly obtain a stay of the court-annexed arbitration proceedings. The judgment of the circuit court is affirmed.

¶ 2 Defendant Kenya Stuckey filed *pro se* an interlocutory appeal from the St. Clair County circuit court’s April 28, 2026, order denying her motion to stay proceedings and compel private arbitration. For the reasons explained below, we affirm.

¶ 3 I. BACKGROUND

¶ 4 This matter arises from a breach of contract action filed by plaintiff Prestige Financial Services, Inc. against defendant to recover the alleged amount due on a retail installment sale contract (Contract) for the purchase of a vehicle. Plaintiff attached to its complaint a copy of the

Contract, which was executed by plaintiff. The Contract contained an arbitration provision, which stated, *inter alia*, that either party could choose to have any dispute resolved by arbitration administered by the American Arbitration Association (AAA).

¶ 5 Plaintiff filed its complaint on June 9, 2025. On December 8, 2025, defendant filed a *pro se* appearance in the case, and appeared in court the following day. The circuit court continued the matter to allow defendant time to file an answer. Defendant filed her answer, affirmative defenses, and counterclaims to plaintiff's complaint on February 9, 2026. Defendant did not invoke the Contract's arbitration provision, or otherwise make reference to arbitration, in any of these filings. On February 10, 2026, the circuit court entered an order referring the matter to the St. Clair County Mandatory Court-Annexed Arbitration Program (CAA). The arbitration was scheduled for April 14, 2026.

¶ 6 On February 12, 2026, defendant filed a motion entitled "Motion to Compel to Private Arbitration and Stay Proceedings." In her motion, she asserted that the Contract contained a binding arbitration clause mandating that the dispute be resolved by neutral, binding private arbitration. She further argued that, pursuant to the Federal Arbitration Act, the circuit court was required to stay litigation and compel arbitration.

¶ 7 On April 14, 2026, the parties appeared for the CAA, defendant *pro se*, and plaintiff through counsel. That same day, the arbitration panel entered an award in favor of plaintiff. In its filing with the circuit court, the panel wrote that defendant had not waived the issues raised in her motion to compel private arbitration and stay proceedings. Defendant filed a timely notice of rejection of award and paid the required rejection fee on April 28, 2026.

¶ 8 On that same date, the circuit court held a hearing on defendant's motion to stay proceedings and compel private arbitration. At the hearing, the court asked defendant when she

had first raised the issue of private arbitration, and she confirmed that it was in her February 12, 2026, motion. She further acknowledged that she never raised it in either her answer or counterclaims. Defendant further explained that the reason for failing to mention private arbitration sooner was that she had “barely read *** the contract” and could not find her copy of the contract until after her February 9, 2026, filings. However, she stated that she had signed the Contract and had it in her possession before responding to plaintiff’s complaint.

¶ 9 Following brief argument, the circuit court found that defendant had waived her right to have the matter resolved by private arbitration when she filed her answer and counterclaim without raising the issue. The circuit court entered an order denying defendant’s motion on April 28, 2026. In its order, the court restated its findings that “defendant waived the mandatory arbitration provision of the contract by failing to raise [it] in her answer or counterclaim.” Defendant filed a timely notice of appeal pursuant to Illinois Supreme Court Rule 307(a)(1) (eff. Nov. 1, 2017).

¶ 10 II. ANALYSIS

¶ 11 On appeal, defendant raises two arguments. First, she contends that the circuit court erred in finding that she had waived her right to private arbitration because her conduct did not rise to the level of “heavily inconsistent with the arbitration agreement,” indicating waiver. She adds that she raised the issue of private arbitration “just three days after her initial response,” no significant actions had taken place in the case, and plaintiff suffered no prejudice. Second, defendant argues that plaintiff “procedurally defaulted” its right to litigate the case before the circuit court due to its bad faith actions to “intentionally sabotage” her efforts to invoke the arbitration clause. She alleged that plaintiff, through counsel, falsely represented to the AAA that defendant had delayed her arbitration request and that a final judgment had been awarded in the case.

¶ 12 As defendant correctly states on appeal, Illinois law and public policy favor arbitration as a method of settling disputes. *Koehler v. The Packer Group, Inc.*, 2016 IL App (1st) 142767, ¶ 22. However, a party may waive its right to arbitration by conducting itself “ ‘in a manner inconsistent with the arbitration clause, thereby demonstrating an abandonment of that right.’ ” *Id.* (quoting *Northeast Illinois Regional Commuter R.R. Corp. v. Chicago Union Station Co.*, 358 Ill. App. 3d 985, 996 (2005)). A party acts inconsistently with its right to arbitration “by submitting substantive issues under the agreement to the trial court for consideration” before attempting to assert this right. *Caterpillar Inc. v. Century Indemnity Co.*, 2019 IL App (3d) 190032, ¶ 28.

¶ 13 We generally review an order granting or denying a motion to compel arbitration under an abuse of discretion standard. *Westlake Services LLC v. Williams*, 2025 IL App (1st) 241383, ¶ 13. However, where—as here—the circuit court issues its ruling without holding an evidentiary hearing or making any findings of fact, we review the matter *de novo*. *Id.*

¶ 14 In *Koehler*, the First District found that the defendants waived their rights to arbitration when they filed an answer asserting an affirmative defense unrelated to the arbitration provision in the underlying contract. 2016 IL App (1st) 142767, ¶ 25. Furthermore, the First District explained that Illinois courts have generally found waiver where “a defendant files an answer without simultaneously asserting the right to arbitrate.” *Id.* (collecting similar cases); *Watkins v. Mellen*, 2016 IL App (3d) 140570, ¶¶ 16-18 (defendants waived arbitration by filing a motion to dismiss raising a substantive issue that would have otherwise been resolved in arbitration); *Atkins v. Rustic Woods Partners*, 171 Ill. App. 3d 373, 378 (1988) (finding waiver where defendants filed a motion to dismiss complaint for failure to state a cause of action without raising arbitration clause). In contrast, we did not find waiver where a defendant invoked its right to arbitration in its initial responsive pleadings. See, e.g., *Caterpillar*, 2019 IL App (3d) 190032, ¶¶ 32-34 (finding no

waiver where defendant asserted its arbitration rights in its answer and affirmative defenses); see also *Jenkins v. Trinity Evangelical Lutheran Church*, 356 Ill. App. 3d 504, 508 (2005) (finding no waiver where defendant responded to the complaint with a summary judgment motion asserting alternative dispute resolution requirement).

¶ 15 Similar to *Koehler* and factually comparable cases, defendant here filed an answer, affirmative defenses, and counterclaim in response to plaintiff's complaint. In none of the several issues she raised in those filings did she mention arbitration, a fact to which she admitted before the circuit court in the hearing on her motion. She did, however, assert issues under the Contract that would have been resolved in private arbitration had she properly, timely raised the relevant contractual provision.

¶ 16 Furthermore, as plaintiff notes, defendant also appeared in court at the initial hearing on the case, at which the circuit court allowed her time to file an answer. There is no indication in the record that she invoked the Contract's arbitration provision before the court at that time. Indeed, as she told the court at the hearing on her motion, the first time she ever raised this issue was in her motion to compel private arbitration, filed after her initial responsive pleadings.

¶ 17 Regarding her arguments on appeal that transfer to private arbitration would not have prejudiced plaintiff and that her motion was filed early on in the proceedings, these points are insufficient to counter the fact that she had already demonstrated through her actions a clear inconsistency with the intent to invoke the Contract's arbitration provision.

¶ 18 Lastly, we need not address defendant's allegations of bad faith conduct on the part of plaintiff's counsel, as they are beyond the scope of this appeal. In an interlocutory appeal, "the only question before the reviewing court is whether there was a sufficient showing made to the trial court to sustain its order granting or denying the interlocutory relief." *Keefe-Shea Joint*

Venture v. City of Evanston, 332 Ill. App. 3d 163, 168 (2002). Here, the circuit court denied defendant's motion to stay proceedings and compel private arbitration based on its finding that she had waived her right to private arbitration. The record on appeal shows that she did not raise any issues regarding plaintiff's counsel's alleged misrepresentations before the circuit court. Any issues relating to these allegations on appeal are not properly before this court.

¶ 19

III. CONCLUSION

¶ 20 For the reasons stated, the circuit court did not err in denying the defendant's motion to stay proceedings and compel private arbitration. The judgment of the circuit court is affirmed.

¶ 21 Affirmed.