

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**JONATHAN J. HAMDORF**

**Plaintiff,**

**v.**

**UNITED HEALTHCARE SERVICES,  
INC., et al.,**

**Defendants.**

**Case No. 2:23-mc-00215-HLT**

**ORDER**

This matter arises out of a dispute between Jonathan Hamdorf and his former employers, United Healthcare Services and UnitedHealth Group Incorporated (collectively, “United”), over various restrictive covenants. The parties submitted the matter to arbitration. On August 30, 2023, an arbitrator issued Findings of Fact, Conclusions of Law, and Interim Award Granting Temporary Injunctive Relief (“Interim Award”). *See* Doc. 3-9. This action was subsequently initiated by Hamdorf on a motion to vacate the Interim Award. Doc. 1. United opposed Hamdorf’s motion to vacate and cross-moved to confirm. Doc. 10. The Court denied Hamdorf’s motion to vacate and denied United’s motion to confirm without prejudice subject to refile. Doc. 24.

United has now renewed the motion to confirm. Doc. 27. Hamdorf has notified the Court via email that he does not oppose United’s renewed motion. Accordingly, for the reasons stated below, the Court grants United’s unopposed renewed motion to confirm.

The Federal Arbitration Act (“FAA”) provides for judicial confirmation of arbitration awards:

If the parties in their agreement have agreed that a judgment of the court shall be entered upon the award made pursuant to the arbitration, and shall specify the court, then at any time within one year after the award is made any party to the arbitration may apply

to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified, or corrected as prescribed in sections 10 and 11 of this title.

9 U.S.C. § 9. Deciding whether to confirm an arbitration award is a two-step inquiry. *Torgerson v. LCC Int'l, Inc.*, 2023 WL 1396479, at \*8 (D. Kan. 2023). First, the party seeking confirmation must establish subject-matter jurisdiction. *Id.* Second, the movant must establish that the parties agreed to judicial confirmation. *Id.*

Subject-Matter Jurisdiction. “[B]ecause the FAA does not create any independent federal-question jurisdiction, there must be diversity of citizenship or some other independent basis for federal jurisdiction before a federal court can act under the FAA.” *P & P Indus., Inc. v. Sutter Corp.*, 179 F.3d 861, 866 (10th Cir. 1999) (internal quotation and citation omitted). Here, diversity jurisdiction exists because Hamdorf is a Kansas resident and United is a resident of Delaware and Minnesota and the amount in controversy is more than \$75,000. *See* Doc. 2 at 2-3. Thus, subject-matter jurisdiction exists under 28 U.S.C. § 1332.

Judicial Confirmation. The Arbitration Policy in this case provides that “[a]ny party may bring an action in a court of competent jurisdiction to compel arbitration under this Policy, to enforce an arbitration award or to vacate an arbitration award.” Doc. 3-4 at 8. The parties therefore agreed to judicial confirmation. Under 9 U.S.C. § 9, the parties may seek confirmation by “the United States court in and for the district within which such award was made” if no court is otherwise specified in the agreement. Arbitration occurred in Kansas, and therefore this is the proper forum to seek judicial confirmation under both the Arbitration Policy and the FAA.

The FAA further provides that an arbitration award must be confirmed “unless the award is vacated, modified, or corrected.” 9 U.S.C. § 9. The Court previously denied Hamdorf’s motion to vacate, finding that he had waived arguments that the arbitrator could not decide arbitrability

and because there was no indication the arbitrator's substantive decisions exceeded the scope of her authority. *See* Doc. 24 at 1. The Court is not aware of any other reasons why the Interim Award would be vacated, modified, or corrected.

Finally, the Court denied without prejudice United's initial request to confirm given the interim nature of the award. *Id.* at 12.<sup>1</sup> Neither party had addressed the circumstances under which an interim award can be confirmed. In the renewed motion, United argues that the fact that the underlying award was interim does not prevent it from being confirmed. Doc. 28 at 3-4. Based on the authorities cited in the renewed motion, the Court agrees. *See Johnson v. Dentsply Sirona Inc.*, 2017 WL 4295420, at \*3 (N.D. Okla. 2017) ("The Supreme Court, however, has not provided 'definitive guidance' on what types of awards may be considered final for the purposes of judicial review . . . . Neither has the Tenth Circuit. But several district and circuit courts have considered arbitrators' 'partial awards' and 'interim rulings' final, and thus subject to judicial review, and the Supreme Court has not prohibited this practice."); *Vital Pharms. v. PepsiCo, Inc.*, 528 F. Supp. 3d 1304, 1308 (S.D. Fla. 2020) ("[T]his Court and many others have found that confirmation of interim arbitral orders granting injunctive relief is appropriate under Section 9 of the FAA.").

United argues that the Interim Award may be confirmed because it finally disposes of a claim. *See Blue Cross Blue Shield of Mich. v. Medimpact Healthcare Sys., Inc.*, 2010 WL 2595340, at \*2 (E.D. Mich. 2010) ("An 'interim' award may be sufficiently final to warrant review in federal district court when it finally and definitively disposes of a separate independent claim[.]" (internal quotation and citation omitted)); *Johnson*, 2017 WL 4295420, at \*6 ("Rather, the Ruling 'finally and definitively' disposes of an independent issue in the arbitration; it enjoins plaintiff from

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<sup>1</sup> The Court also denied United's request for attorneys' fees as unsupported. Doc. 24 at 12. In its renewed motion, "United concedes that Arbitration is the proper jurisdiction to determine the award of attorneys' fees and costs." Doc. 28 at 6 n.1.

breaching the confidentiality and non-compete provisions of the 2007 Agreement for the pendency of the arbitration.”). On this point, United contends that the Interim Award is not an inconsequential or procedural matter and that it was based on a determination that Hamdorf was in breach of his contractual obligations warranting an injunction and is therefore sufficiently final. United also argues that the Interim Award should be confirmed to preserve the status quo pending any additional arbitration proceedings and to give the Interim Award “teeth,” which is a reason often cited by courts confirming interim or preliminary awards. *See Arrowhead Glob. Sols., Inc. v. Datapath, Inc.*, 166 F. App’x 39, 44 (4th Cir. 2006) (“In short, as the other circuits to have addressed this issue recognize, arbitration panels must have the power to issue temporary equitable relief in the nature of a preliminary injunction, and district courts must have the power to confirm and enforce that equitable relief as ‘final’ in order for the equitable relief to have teeth.”); *Vital Pharms.*, 528 F. Supp. 3d at 1308 (“Despite its interim nature, the Emergency Arbitrator’s award is a preliminary injunction, and confirmation of the injunction is necessary to make final relief meaningful.” (internal quotation and citation omitted)); *Yahoo! Inc. v. Microsoft Corp.*, 983 F. Supp. 2d 310, 319 (S.D.N.Y. 2013) (“Further, if an arbitral award of equitable relief based upon a finding of irreparable harm is to have any meaning at all, the parties must be capable of enforcing or vacating it at the time it is made.” (internal quotation and citation omitted)).

As noted, Hamdorf has indicated to the Court that he does not oppose confirmation of the Interim Award. Based on these considerations, the Court finds that United’s renewed motion to confirm should be granted.

THE COURT THEREFORE ORDERS that United’s Renewed Motion to Confirm the Arbitrator’s Interim Award (Doc. 27) is GRANTED. The Court confirms the “Findings of Fact, Conclusions of Law, and Interim Award Granting Temporary Injunctive Relief” dated August 30,

2023, in American Arbitration Association Case No. 01-23-0001-9735, styled *United Healthcare Services, Inc. and UnitedHealth Group Incorporated v. Jonathan Hamdorf*. Judgment shall be entered confirming and enforcing the Interim Award.

THE COURT FURTHER ORDERS that this miscellaneous case is closed.

IT IS SO ORDERED.

Dated: January 31, 2024

/s/ Holly L. Teeter  
HOLLY L. TEETER  
UNITED STATES DISTRICT JUDGE