

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

JAMES MUTKA, an individual

Plaintiff,

v.

Case No: 2:18-cv-539-FtM-38MRM

TOP HAT IMPORTS, LLC,

Defendant.

---

**OPINION AND ORDER**<sup>1</sup>

Before the Court is United States Magistrate Judge Mac R. McCoy's Report and Recommendation. ([Doc. 34](#)). Judge McCoy recommends granting Defendant Top Hat Imports, LLC's Motion to Compel Arbitration and Stay Case. Neither party objects to the Report and Recommendation, and the time to do so has expired. The Report and Recommendation is thus ripe for review.

A district judge "may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge." [28 U.S.C. § 636\(b\)\(1\)](#). The district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* And "[t]he judge

---

<sup>1</sup> Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

may also receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

After examining the file independently, and upon considering Judge McCoy’s findings and recommendations, the Court accepts and adopts the Report and Recommendation.

Accordingly, it is now **ORDERED**:

- (1) The Report and Recommendation ([Doc. 34](#)) is **ACCEPTED** and **ADOPTED**, and the findings incorporated herein.
- (2) Defendant Top Hat Imports, LLC’s Motion to Compel Arbitration and Stay Case ([Doc. 25](#)) is **GRANTED**.
- (3) The parties are **DIRECTED** to arbitrate this action promptly.
- (4) All proceedings in this case are **STAYED** until the parties tell the Court that arbitration has been completed and the stay can be lifted, or the case be dismissed. The parties must notify the Court of such matters within **five (5) days** of arbitration concluding.
- (5) The parties are **DIRECTED** to file a joint report on the status of arbitration on or before **June 3, 2019**, and every ninety (90) days thereafter until arbitration concludes.
- (6) The Clerk is **DIRECTED** to add a stay flag.

**DONE** and **ORDERED** in Fort Myers, Florida this 4th day of March 2019.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record