FILED
Superior Court of California
County of San Francisco

JUL 01 2026

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

STERLING KELLY, individually, on behalf of all others similarly situated, Plaintiff, v. HATFIELD, INC. d/b/a GRID; and DOES 1-10, inclusive, Defendants.	Case No. CGC-25-630145 ORDER DENYING DEFENDANT'S MOTION TO STAY, OR IN THE ALTERNATIVE, COMPEL ARBITRATION OF INDIVIDUAL CLAIMS AND STRIKE CLASS CLAIMS

Plaintiff Sterling Kelly filed this lawsuit on behalf of himself and a putative class against defendant Hatfield, Inc. dba Grid, alleging defendant's lending practices violate the Military Lending Act and Truth in Lending Act. Before the court is defendant's motion to stay or, in the alternative, to compel arbitration of plaintiff's individual claims and strike class claims. This matter came on regularly for hearing on June 29, 2026, at 9:00 a.m., in Department 613, the Honorable Jeffrey S. Ross presiding. Joshua Jacobson (Jacobson Phillips PLLC) and Colin Hector (Conn Law, PC) appeared for plaintiff Sterling Kelly. Melissa Meister (Kaufman Dolowich LLP) appeared for defendant Hatfield, Inc. dba Grid. Having reviewed and considered the parties' briefing, relevant pleadings, and oral argument, IT IS HEREBY ORDERED that the court DENIES defendant's motion to stay and its motion to compel arbitration and strike class claims.

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BACKGROUND

Plaintiff, a specialist in the U.S. Army, files this lawsuit on behalf of himself and a putative class, against defendant for its lending practices which he alleges violate the Military Lending Act ("MLA") and the Truth in Lending Act ("TILA").

According to the complaint, a product named "earned wage access" or "earned wage advance" ("EWA") provides workers before their payday with funds that purport to equal or approximate a portion of their unpaid wages. (Compl., ¶¶ 34–35.) Loaned funds are repaid through automated withdrawal from the consumer's bank account. (Compl., ¶ 35.) Grid is in the business of payday lending through an EWA product it calls "Cash Advance" where it makes cash advances to its users, who repay principal and finance charges (including expedite fees and subscription charges) on payday. (Compl., ¶ 2.) Grid provides an EWA service called "Cash Advance" and "Boost" EWA product. (Compl., ¶ 36.) Grid loans funds to users through Cash Advance and these funds are repaid on their next payday. (Compl., ¶ 36.) To repay these loans, users must link their bank account to their Grid profile, provide a debit card, and authorize automated debits from their linked external bank account on their scheduled repayment date. (Compl., ¶ 38.) If a user cannot repay a loan, Grid prevents them from using the product until the loan is repaid. (Compl., ¶ 80.)

Although it advertises that its loans are no interest and promises no mandatory fees, Grid takes in triple finance charges on the loans it issues. (Compl., ¶ 3.) Plaintiff used Grid's Cash Advance product. (Compl., ¶ 4.) He claims that in charging high fees for loaned cash, Grid has extended consumer credit to plaintiff in violation of the MLA and TILA. (Compl., ¶ 4.) Plaintiff alleges that, in violation of the MLA, Grid uses its Cash Advance product to impose charges that yield a military annual percentage rate in excess of the MLA's legal limit. (Compl., ¶ 6.)

EWA providers are paid through various types of fees. (Compl., ¶ 40.) Grid relies on expedite fees and mandatory subscription fees. (Compl., ¶ 40.) Expedite fees—labeled "delivery fees" by Grid—are charged to provide immediate access to loan funds. (Compl., ¶ 41.) For Cash Advances, Grid charges $2.99 for expedited delivery of loan funds even though the actual cost to provide users with instant access to funds is less than $0.05. (Compl., ¶¶ 42–43.) Grid also charges subscription charges, which are monthly fees that users must agree to when signing up for its service in order to gain access to Cash

Advances. (Compl., ¶¶ 48–49.) These subscription charges are $10 monthly mandatory fees that must be paid to use the platform and there is no mechanism to sign up for Cash Advances without agreeing to these monthly subscription charges. (Compl., ¶¶ 49–51.)

LEGAL STANDARD

Under Code of Civil Procedure section 1281.2, a party may seek to compel arbitration of a dispute upon alleging that there is a written agreement to arbitrate and that the other party refuses to arbitrate the controversy. In ruling on such a petition or motion, a court principally determines whether a valid and enforceable agreement to arbitrate exists that requires arbitration of the controversy at issue. (See generally *M & M Foods, Inc. v. Pacific American Fish Company, Inc.* (2011) 196 Cal.App.4th 554, 559.) When evaluating and interpreting arbitration agreements, courts primarily apply ordinary rules of contract interpretation. (*Maggio v. Windward Cap. Mgmt. Co.* (2000) 80 Cal.App.4th 1210, 1214.) A court seeks to give effect to the mutual intent of the parties starting, principally, from the language of the contract. (*Ibid.*, citing Civ. Code, §§ 1636, 1638.)

When an arbitration agreement is governed by the Federal Arbitration Act ("FAA"), a California court's analysis of the existence and enforceability of an arbitration agreement may also be dictated by federal jurisprudence—notwithstanding ordinary principles of state law—based on the doctrine of preemption. (See, e.g., *Viking River Cruises, Inc. v. Moriana* (2022) 596 U.S. 639, 649–50.) "Section 2 of the [FAA] makes arbitration agreements 'valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.' 9 U.S.C. § 2." (*Ibid.*) The Supreme Court has historically interpreted Section 2 of the FAA as containing an enforcement clause and a savings clause that "jointly establish 'an equal-treatment principle: A court may invalidate an arbitration agreement based on "generally applicable contract defenses" like fraud or unconscionability, but not on legal rules that "apply only to arbitration or that derive their meaning from the fact that an agreement to arbitrate is at issue."' [Citations.]" (*Ibid.*) "Under that principle, the FAA 'preempts any state rule discriminating on its face against arbitration—for example, a law "prohibit[ing] outright the arbitration of a particular type of claim."' [Citations.]" (*Ibid.*)

DISCUSSION

At the outset the court addresses defendant's request to stay. Grid moves to stay this case pending adjudication of the underlying merits—namely, whether defendant's product violates the MLA—by the Ninth Circuit Court of Appeals. (*Moss v. Cleo AI Inc.*, No. 25-5856 (9th Cir. filed Sept. 15, 2025); *Vickery v. Empower Fin., Inc.*, No. 25-6377 (9th Cir. filed Oct. 9, 2025); *Revell v. Grant Money LLC*, No. 25-7035 (9th Cir. filed Nov. 6, 2025).) This issue is also before the First and Second Circuits. (*Burrison v. FloatMe, Corp.*, No. 26-1256 (1st Cir. filed Mar. 17, 2026); *Lowe v. MoneyLion Techs. Inc.*, No. 26-655 (2d Cir. filed Mar. 18, 2026).) In its motion at page 6, line 10 through page 7, line 11, Grid relies on Code of Civil Procedure, section 410.30, subdivision (a), which provides: "When a court upon motion of a party or its own motion finds that in the interest of substantial justice an action should be heard in a forum outside this state, the court shall stay or dismiss the action in whole or in part on any conditions that may be just." Code of Civil Procedure section 410.30 codifies the common law doctrine of forum non conveniens. (*Grove v. Juul Labs, Inc.* (2022) 77 Cal.App.5th 1081, 1090.) "Forum non conveniens is an equitable doctrine invoking the discretionary power of a court to decline to exercise the jurisdiction it has over a transitory cause of action when it believes that the action may be more appropriately and justly tried elsewhere." (*Stangvik v. Shiley Inc.* (1991) 54 Cal.3d 744, 751.) Code of Civil Procedure section 410.30 can also be relied on to enforce a forum selection clause. (*Grove*, *supra*, 77 Cal.App.5th at p. 1090.) It is entirely unclear why Grid relied on Code of Civil Procedure, section 410.30.

Plaintiff responded that section 410.30 is inapplicable. While the federal appellate courts are considering similar issues arising between **other** parties, **this action** between plaintiff and Grid is not pending in the federal courts. Therefore, there is no basis to invoke that remedy. Curiously, in reply defendant argues that "Grid's motion does not rest on § 410.30. Rather, it rests on the Court's inherent authority under Code of Civil Procedure § 128(a)(8) and *Freiberg v. City of Mission Viejo*, 33 Cal.App.4th 1484…" (Reply at p. 2.) However, Grid did not reference either Code of Civil Procedure, section 128 or *Freiberg* in its motion or brief.

Regardless of the statutory authority which could provide a basis for a stay in the appropriate circumstances, that outcome is not justified here. Staying this case to await decisions in the First, Second, and/or Ninth Circuits is unwarranted. Those cases will not resolve the dispute between plaintiff and Grid. Nor can the parties or the court predict when those courts will decide nor whether they will agree. In view of the class certification briefing schedule proposed by the parties and adopted by the court, there will be ample opportunity to address applicable federal authority before the hearing on the class certification motion. The motion to stay is **DENIED**.

The court turns to Grid's alternative motion to compel arbitration of plaintiff's individual claims and strike class claims. Grid argues that plaintiff's acceptance of its terms of service require that any dispute be resolved by arbitration. Upon enrolling for membership, plaintiff was directed to a hyperlink and required to "accept" the terms of service by clicking on a checkbox before continuing with his account set up which include the arbitration agreement. (Chung Decl., ¶¶ 6–9.) Grid argues that the MLA's prohibition on arbitration is inapplicable—a position plaintiff disputes. If the MLA overrides the FAA and thus, if the MLA applies, plaintiff cannot be compelled to arbitration. At hearing, for the first time, Grid argued that the court should distinguish between the MLA and TILA and argued that even if the MLA applies, the court could still compel arbitration based on TILA because not all members of the class are service members and their claims would be different under TILA.

The MLA is a federal law governing certain loans and terms of loans for service members and their dependents to protect them from certain loans. (10 U.S.C., § 987.) Under the MLA, creditors are subjected to certain limitations when extending credit to a covered member of the armed forces or a dependent of such member. (10 U.S.C., § 987(a).) For example, a creditor may not impose an annual percentage rate of interest greater than 36 percent. (10 U.S.C., § 987(b).)

Congress enacted the TILA to promote "the informed use of credit" by consumers. (15 U.S.C., § 1601(a).) The TILA's purpose is "to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and to avoid the uniformed use of credit, and to protect the consumer against inaccurate and unfair credit billing and credit card practices." (15 U.S.C., § 1601(a).)

The court reviewed the complaint, which alleges the following two classes:

> **MLA Class**: All Covered Members and dependents of Covered Members to whom Grid extended a "Cash Advance" (or substantially similar) product, in which the borrower incurred a finance charge (including, without limitation, a Delivery fee, or subscription charge).

> **TILA Class**: All Covered Members and dependents of Covered Members to whom Grid extended a "Cash Advance" (or substantially similar) product, in which the borrower incurred a finance charge (including, without limitation, a Delivery fee, or subscription

charge).

(Compl., ¶ 93.)

Covered members are defined as United States active-duty servicemembers and their dependents. (Compl., ¶ 1.) Plaintiff's counsel confirmed that the classes are coextensive; which undermines Grid's argument that there are members of the class who do not have the MLA apply to them and only the TILA applies to them. As the members of the class (as alleged in the complaint and confirmed by plaintiff's counsel at the hearing) are servicemembers and their dependents and thus, the MLA would apply to them, the court disregards Grid's argument that the court can compel arbitration based on the TILA. The court turns to the MLA and whether the MLA overrides the FAA.

"In 1925, Congress passed the FAA to 'overrule the judiciary's longstanding refusal to enforce agreements to arbitrate' and to place such agreements ' "upon the same footing as other contracts, where it belongs." ' *Dean Witter Reynolds Inc. v. Byrd* (1985) 470 U.S. 213, 219–220, 105 S.Ct. 1238, 84 L.Ed.2d 158) (*Byrd*)). The federal statute rests on the authority of Congress to enact substantive rules under the commerce clause, requiring courts to enforce arbitration agreements in contracts involving interstate commerce." (*Cronus Invs., Inc. v. Concierge Servs.* (2005) 35 Cal.4th 376, 383.) The FAA provides: "A written provision in any maritime transaction or a contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract or transaction, or the refusal to perform the whole or any part thereof, or an agreement in writing to submit to arbitration an existing controversy arising out of such a contract, transaction, or refusal, shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract or as otherwise provided in chapter 4. (9 U.S.C.A. § 2.) Generally, the "party asserting the FAA applies to an agreement has 'the burden to demonstrate the FAA coverage by declarations and other evidence.' (*Hoover v. American Income Life Insurance Co.* (2012) 206 Cal.App.4th 1193, 1207.)" (*Everskaas v. California Transit, Inc.* (2022) 81 Cal.App.5th 285, 292.)

There are Congressional acts that override the FAA. In *Epic Systems Corporation v. Lewis* (2018) 584 U.S. 497, the United States Supreme Court held that "Congress has…shown that it knows how to override the Arbitration Act when it wishes." (*Id.* at p. 514) The United States Supreme Court referred to the Military Lending Act as one of the Congressional acts that override the FAA. (*Id.* at p. 514 ["requiring a party to arbitrate is 'unlawful' in other circumstances yet, 10 U.S.C. § 987(e)(3)."].) The MLA states: "Notwithstanding section 2 of title 9, or any other Federal or State law, rule, or regulation, no agreement to arbitrate any dispute involving the extension of consumer credit shall be enforceable against any covered member or dependent of such a member, or any person who was a covered member or dependent of that member when the agreement was made." (10 U.S.C.A. § 987(f)(4).)

Grid argues that the parties delegated the agreement's validity and enforceability to the arbitrator because of the delegation clause. However, on its face as applied to this case, MLA overrides the FAA; the delegation clause cannot be enforced.

Grid argues that the Consumer Financial Protection Bureau's December 23, 2025, advisory opinion forecloses plaintiff's argument and that the transactions at issue do not constitute the extension of consumer credit and thus, do not trigger the protections of the MLA. Grid correctly recognizes that advisory opinions by agencies such as the CFPB are not binding on this court. Grid relies heavily on this guidance but does not support that this guidance is sound or that it would be relied on by courts of other jurisdictions, including the First, Second, or Ninth Circuits.

Grid argues that its Cash Advances are not "credit" under the MLA because plaintiff did not incur "debt." Under the MLA, "[c]redit means the right granted to a consumer by a creditor to defer payment of debt or to incur debt and defer its payment." (32 C.F.R. § 232.3(h).) Both parties agree that the MLA does not define "debt" and that undefined terms in a statute should be given their ordinary meaning. Debt is defined as "something owed: obligation," or "a state of being under obligation to pay or repay someone or something in return for something received: a state of owing." (*Debt*, MERRIAM-WEBSTER.COM, https://www.merriam-webster.com/dictionary/debt (last visited June 25, 2026).) Debt is defined in another statute as "any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment." (15 U.S.C.A. § 1692a(5).).

Grid's customers preauthorize debits from their bank accounts on their scheduled repayment date, which is payday. (Compl., ¶¶ 35, 36, 38.) Grid loans funds to customers through Cash Advance and these funds are repaid on their next payday. (Compl., ¶ 36.) To repay these loans, users must link their bank account to their Grid profile, provide a debit card, and authorize automated debits from their linked external bank account on their scheduled repayment date. (Compl., ¶ 38.) Grid prevents its customers from using the product if they cannot repay a loan. (Compl., ¶ 80.) Customers cannot disconnect their connected bank account from the Grid app while a Cash Advance is outstanding, which ensures that Grid will be able to automatically deduct the sum of the Cash Advance loan amount and any additional charges—such as the subscription fee—from the linked account as soon as the next paycheck is deposited on payday. (Compl., ¶¶ 80–81.) Grid argued in their briefing and at hearing that there is no debt because Grid has no recourse. (MPA at pp. 14–15; Reply at p. 5.) Grid argues that it does not engage in debt collection activities, reassign any rights to repayment, or report customers to consumer reporting agencies. But those factors do not relieve Grid of the application of the MLA. The MLA is intended to protect consumers from predatory loans. Thus, the court must look at the statutory text broadly and not as narrowly as Grid argues. (See *Burnett v. Ala Moana Pawn Shop* (9th Cir. 1993) 3 F.3d 1261, 1262 ["Because the Truth in Lending Act is liberally construed to protect consumers, the lack of this sort of ambiguity would not have prevented the court from looking past the form of the transactions to their economic substance in deciding whether the Act applied. *See Ford Motor Credit Co. v. Cenance,* 452 U.S. 155, 157–58, 101 S.Ct. 2239, 2240–41, 68 L.Ed.2d 744 (1981)."].) Plaintiff—like other Grid users—has an obligation to pay these cash advances and preauthorized automated debits from his linked external bank account on the scheduled repayment date. (Compl., ¶ 38.) Grid automatically debits the users' accounts and is repaid for its cash advances on the users' payday. (Compl., ¶ 36 ["Through Cash Advance, Grid loans customers funds that are repaid on their next payday."].) Grid's Cash Advance structure enables plaintiff to incur debt as Grid provides a Cash Advance to plaintiff who promises to repay the Cash Advance in conjunction with mandatory authorization of automated debits from his linked external bank account on his next payday. (Compl., ¶¶ 36, 38, 72–79.) The court determines that Grid's Cash Advance is a credit product under the MLA.

Next, Grid argues that plaintiff cannot establish that the transactions are consumer credit because Expedite Fees are not finance charges. "Consumer credit means credit offered or extended to a covered borrower primarily for personal, family, or household purposes, and that is: (i) Subject to a finance charge; or (ii) Payable by a written agreement in more than four installments." (32 C.F.R. § 232.3(f)(1).) "Finance charge has the same meaning as 'finance charge' in Regulation Z." (32 C.F.R. § 232.3(n).) Regulation Z provides that "[t]he finance charge is the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit. It does not include any charge of a type payable in a comparable cash transaction." (12 C.F.R. § 1026.4(a).) Grid analogizes Expedite Fees to ATM convenience fees, expedite fees by PayPal and Venmo, and wire transfer fees to argue that Expedite Fees could be incurred if this were a cash transaction and thus, Expedite Fees are not a finance charge. But these are not legal arguments which the court can consider in the context of this motion.

Grid argues that Expedite Fees are not incidental or a condition of credit because they are avoidable and plaintiff and any other user could have chosen to receive their funds in one to three days and would have not incurred any Expedite Fee. Expedite fees are charged to provide immediate access to loan funds. (Compl., ¶ 41.) For Cash Advances, Grid charges $2.99 for expedited delivery of loaned funds. (Compl., ¶ 42.) Grid advertises itself through its website, app, and marketing to provide speedy access to funds. (Compl., ¶ 45.) The free non-expedited version of Cash Advance can take one to five days for users to receive whereas the expedited service takes only a few minutes to up to eight hours. (Compl., ¶ 46; TOU, § 9(a).) Although the Expedite Fees are not mandatory, they constitute finance charges because Grid charges Expedite Fees in connection with Cash Advances which satisfies the "incident to" requirement under Regulation Z and by advertising its ability to provide funds quickly, Grid has made Expedite Fees a material term of its Cash Advances. (12 C.F.R. § 1026.4(a); *Household Credit Servs., Inc. v. Pfennig* (2004) 541 U.S. 232, 240–41 ["regardless of how the fee is characterized, there is at least some connection…this Court has recognized that the phrase 'incident to or in conjunction with' implies some *necessary* connection between the antecedent and its object, although it "does not place beyond rational debate the nature or extent of the required connection.' *Holly Farms Corp. v. NLRB,* 517 U.S. 392, 403, n. 9, 116 S.Ct. 1396, 134 L.Ed.2d 593 (1996) (internal quotation marks omitted). In other words, the phrase 'incident to' does not make clear whether a substantial (as opposed to a remote) connection is required."]; Compl., ¶ 45 ["Grid's website, app, and marketing include numerous representations about the speed of access to funds, including: • 'Get cash when you need it' • 'Quick approval process' • 'Advance now' • 'With Fast Delivery, you can get your advance within 8 hours on any day' • 'Need money fast?'"].)

Grid argues that subscription fees are not finance charges because they are not "condition of" or "incident to" the extension of credit because the Cash Advances are not credit. As addressed above, the court determined that Cash Advances are credit.

Grid argues that subscription fees are not finance charges and plaintiff—and all Grid users—can opt out of the Grid+ subscription entirely and still receive cash advances. Grid has users who seek to use Cash Advances agree to a monthly $10.00 subscription fee. (Compl., ¶ 49.) Grid argues that a user does not need to subscribe in order to access Cash Advances. In order to access Cash Advances without subscribing to Grid+ users need to email support@getgrid.app and state that they would like a Cash Advance without subscribing to Grid+ and Grid will determine whether the user is eligible. (TOU, § 9(a).) Grid's argument that users can use Cash Advances without subscribing as a user would need to email a support email to ask for a Cash Advance without subscribing to Grid+ and need to wait while Grid determines whether the user is eligible does not lead to the conclusion that the MLA is inapplicable to its transaction. Further, Grid's FAQ advises: "To receive a cash advance, you must have a Grid+ membership, which is currently priced at $10 every month." (Compl., ¶ 50.) The subscription fees do not appear to be participation fees as described in section 1026.4(c)(4) as they are a condition to obtaining a Cash Advance. (12 C.F.R. § 1026.4(a).) Grid needs to determine that a user is *eligible* as stated in its own terms of use. (TOU, § 9(a).) Thus, it appears that it is the exception and not the norm to provide Cash Advances to Grid users who are not paying a subscription fee.

Nor is Grid's argument that plaintiff could have opted out of arbitration a basis for granting its motion. Grid relies on section 987(e)(3), which provides: "It shall be unlawful for any creditor to extend consumer credit to a covered member or a dependent of such a member with respect to which....the creditor requires the borrower to submit to arbitration or imposes onerous legal notice provisions in the case of a dispute." However, section 987(f)(4) prohibits the enforcement of arbitration agreements involving the extension of consumer credit against service members or their dependents. (10 U.S.C., § 987(f)(4).) Reading these provisions together, although section 987(e)(3) does not apply to opt-out arbitration agreements, it does not undercut the prohibition against enforcing arbitration agreements in section 987(f)(4).

In this case the MLA applies and overrides the FAA. Therefore, the court will not compel arbitration of plaintiff's individual claims and will not strike the class claims.

CONCLUSION

Defendant's motion to stay or in the alternative to compel arbitration and strike class claims is **DENIED.**

Dated: July 1, 2026

JEFFREY S. ROSS
Judge of the Superior Court

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6 & CRC 2.251)

I, Sean Kane, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On July 1, 2026, I electronically served the attached document via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: July 1, 2026

Brandon E. Riley, Court Executive Officer

By: ______________________________
Sean Kane, Deputy Clerk