

**IN THE TWELFTH JUDICIAL CIRCUIT COURT  
IN AND FOR DESOTO, MANATEE AND SARASOTA COUNTY, FLORIDA**

\_\_\_\_\_,  
**Plaintiff,**

**v.**

**Case No.:**

\_\_\_\_\_,  
**Defendant.**

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**ORDER APPOINTING ARBITRATOR  
IN COURT-ORDERED NONBINDING ARBITRATION**

- ☐ Based on the parties' agreement to the selection of arbitrator—  
☐ From the lists of proposed arbitrators supplied by the parties who could not agree—

**IT IS ORDERED:**

1. **Appointment of arbitrator.** \_\_\_\_\_ is appointed arbitrator in this matter pursuant to section 44.103, Florida Statutes, and rule 1.820, Florida Rules of Civil Procedure. The arbitrator shall have all rights and immunities authorized by law. See, e.g., § 44.107, Fla. Stat.
2. **Scope of appointment.** The Court refers all matters framed by the pleadings as existing on the date of this Order to be determined by the arbitrator. See United Automobile Ins. Co. v. Ortiz, 931 So. 2d 1025, 1027 (Fla. 4th DCA 2006).
3. **Authority of arbitrator to enter instructions.** The arbitrator shall have the authority to commence and adjourn the arbitration hearing and carry out such duties as are prescribed by section 44.103. The arbitrator may enter instructions as are necessary for the expeditious and orderly conduct of the hearing. These instructions are not appealable. Upon notice to all parties the arbitrator may apply to the assigned judge for orders directing compliance with the arbitrator's instructions.
4. **Use of videoconference technology.** The Court directs the arbitrator to conduct all proceedings using videoconference technology, such as Zoom, or such other videoconference technology as directed by the arbitrator. In the light of the on-going COVID-19 global pandemic, no in-person events shall occur.
5. **Arbitrator's fee.** The parties shall be responsible for paying the arbitrator's fee equally. The denominator used in the allocation of the fee is the number of all parties, regardless of whether an attorney represents more than one party. Parties with a consortium claim and parties alleged to be vicariously or derivatively liable each is considered a party. For instance, if there is one plaintiff and two defendants where one defendant is alleged to be vicariously liable,

the plaintiff shall pay 1/3, the first defendant shall pay 1/3, and the second defendant shall pay 1/3 of the arbitrator's fees. If there are two plaintiffs where one plaintiff is presenting a consortium claim and one defendant, each plaintiff shall pay 1/3 and the defendant shall pay 1/3 of the arbitrator's fees.

6. **Noticing hearings.** The arbitrator is responsible for noticing all hearings and conferences. The arbitrator may delegate this responsibility on one of the parties.

7. **Initial scheduling conference.** The arbitrator shall convene a scheduling conference with the parties within 10 days of appointment. Unless excused in advance by the arbitrator, the lead attorney who will conduct the arbitration must appear for the initial scheduling conference. If the parties and arbitrator cannot agree to the commencement date of the arbitration hearing, the arbitrator shall decide when it will begin.

8. **Arbitration hearing.** The arbitration hearing must begin within 60 days of the arbitrator's appointment. The arbitration hearing must be completed within 30 days of the first day of the arbitration hearing unless extended by court order on the motion by the arbitrator or party.

9. **Conduct of arbitration hearing/rules of evidence.** The arbitrator shall notify the parties in writing of the hearing procedures when providing the notice for the arbitration hearing. As contemplated by rule 1.820(c) and section 44.103(3), the hearing shall be conducted informally. Presentation of testimony shall be kept to a minimum, and matters shall be presented to the arbitrator primarily through the statements and arguments of counsel.

10. **Record and transcript.** Any party may have a record and transcript made of the arbitration hearing or any conference at that party's expense.

11. **Attendance at arbitration hearing.** Each party or authorized representative of corporate party must attend the arbitration unless excused in advance by the arbitrator for good cause shown.

12. **Default of a party to participate.** Should a party fail to appear at an arbitration hearing, the arbitrator may proceed with the hearing and shall render a decision based on the facts and circumstance as presented by the parties present.

13. **Arbitrator's award.** Within 10 days of the final adjournment of the arbitration hearing, the arbitrator must notify all parties in writing of the arbitrator's decision. The arbitrator may set forth issues in controversy and the arbitrator's conclusions and findings of fact and law.

14. **Requests for trials following arbitration.** The Court adheres to the timing requirements for requests for trial following the nonbinding arbitration. ***The parties are advised there are strict deadlines and procedures in requesting a trial following Court-ordered nonbinding arbitration.*** Failure to comply may result in judgment being entered based on the arbitrator's award. **A PARTY WISHING A TRIAL DE NOVO MUST TIMELY REQUEST**

**ONE, EVEN IF THERE IS ALREADY PENDING A TRIAL DATE PREVIOUSLY SET BY THE COURT** Specifically:

(5) The arbitration decision shall be presented to the parties in writing. An arbitration decision shall be final if a request for a trial de novo is not filed within the time provided by rules promulgated by the Supreme Court. The decision shall not be made known to the judge who may preside over the case unless no request for trial de novo is made as herein provided or unless otherwise provided by law. If no request for trial de novo is made within the time provided, the decision shall be referred to the presiding judge in the case who shall enter such orders and judgments as are required to carry out the terms of the decision, which orders shall be enforceable by the contempt powers of the court, and for which judgments execution shall issue on request of a party.

§44.103(5), Fla. Stat.

(h) Time for Filing Motion for Trial. Any party may file a motion for trial. If a motion for trial is filed by any party, any party having a third-party claim at issue at the time of arbitration may file a motion for trial within 10 days of service of the first motion for trial. If a motion for trial is not made within 20 days of service on the parties of the decision, the decision shall be referred to the presiding judge, who shall enter such orders and judgments as may be required to carry out the terms of the decision as provided by section 44.103(5), Florida Statutes.

Fla. R. of Civ. P. 1.820(h)

15. **Entry of judgment or implementing orders.** If no request for trial de novo is timely made, any party may seek entry of judgment or other orders to implement the arbitration award.

16. **No combining mediation with Court-ordered nonbinding arbitration.** The parties may not combine the Court-ordered arbitration with mediation. Nothing in this Order obviates the Court's order requiring mediation.

DONE AND ORDERED in \_\_\_\_ County, Florida, on \_\_\_\_\_.

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Circuit Judge

## **CERTIFICATE OF SERVICE**

I CERTIFY that a true and correct copy of the foregoing has been furnished by email where indicated, otherwise by First Class U.S. Mail on \_\_\_\_\_, 2020 to:

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Judicial Assistant