

IN THE CIRCUIT COURT FOR THE TWENTIETH JUDICIAL CIRCUIT IN  
AND FOR COLLIER COUNTY, FLORIDA

Plaintiff(s),

vs.

CASE NO.

Defendant(s).

\_\_\_\_\_ /

**ORDER FOR NONBINDING ARBITRATION**

**Pursuant** to F.S. 44.103 and F.R.Civ. P. 1.800, this Court finds that the issue(s) in dispute is/are appropriate for nonbinding arbitration and the Court has determined that this action is of such a nature that arbitration could be of benefit to the litigants or the Court, and the parties herein are hereby ordered into same.

The initial arbitrator(s) assigned by the Court to this file is/are:

\_\_\_\_\_ is designated as the chief arbitrator for this arbitration.

Counsel for the parties are notified that if the arbitrator(s) selected is/are not acceptable to the parties, then within 10 days of the date of this Order, the parties must provide written notification to the Court of said objection, and counsel shall provide the name(s) of the alternative arbitrator(s) that counsel has stipulated to use, or, failing such agreement, the Court will appoint another arbitrator(s) .

The procedures for nonbinding arbitration are attached hereto as Exhibit "A" and are incorporated herein by reference.

**IT IS SO ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ .

\_\_\_\_\_  
**FREDERICK R. HARDT, CIRCUIT JUDGE**

## EXHIBIT "A"

### Procedures for Nonbinding Arbitration

(Pursuant to F.S. 44.103 and Florida Rules of Civil Procedure 1.800)

**Note: THIS ORDER FOR NONBINDING ARBITRATION SUPERSEDES ANY  
ORDER REFERRING THIS CASE TO MEDIATION**

- A. In the absence of an agreement by the parties as to the designation of the arbitrator(s), the Court shall determine the number of arbitrators and designate the arbitrators within 15 days after service of the order of referral to non-binding arbitration. In the case of a panel, one of the arbitrators shall be appointed as chief arbitrator. Where there is only one arbitrator, that person shall be designated as the chief arbitrator.
- Counsel for the Plaintiff(s) shall within FIFTEEN (15) days of the date of this Order schedule the date, time and location of the arbitration for the convenience of all parties, attorneys and arbitrator(s).
- B. The arbitrator shall be compensated at a rate stipulated to by the parties and the arbitrator, or as provided in F.R.Civ.P. 1.810(b) and F.S. 44.103(3). Arbitration fees shall be equally divided and borne by the parties, and any agreed charges for travel and reasonable expenses are also to be equally divided. Where there are multiple parties, the fee initially shall be the responsibility of the principal parties.
- C. All parties, including non-counsel representatives of corporate parties **with full authority to settle the matter**, must attend the arbitration hearing. If insurance is involved, whether or not named as a party, the insurance company shall have a representative present with full and absolute authority to resolve the case. Parties may be represented by counsel; however, counsel shall not be considered a representative of the party for purposes of this section. Hearings may continue without the presence of counsel. If a party fails to attend the scheduled hearing, the chief arbitrator may proceed with the hearing, and the arbitrator(s) shall render a decision based upon the facts and circumstances as presented by the parties present. Failure to attend the hearing may also result in the court applying sanctions including the striking of pleadings or portions thereof, the awarding of fees and costs and/or contempt proceedings.
- D. The parties shall submit case summaries to the arbitrator(s) at least 10 days prior to the hearing.
- E. The hearing shall be conducted informally. See F.R.Civ.P. 1.820(c). Presentation of testimony shall be kept to a minimum and facts and issues shall be presented to the arbitrator(s) primarily through documents and the statements and arguments of counsel or the parties.
- F. Any party may have a record and transcript made of the arbitration hearing at that party's expense.

- G. The arbitrator(s) should coordinate with the parties/counsel to ascertain the date of the arbitration hearing and said arbitration shall be completed within 30 days of the hearing unless extended by Order of the Court on motion of the Arbitrator or of a party. No extension of time shall be for a period exceeding 60 days from the date of the first arbitration hearing.
- H. If the decision identifies or otherwise clearly demonstrates a party to be the prevailing party, the decision shall make a finding as to the assessment of costs, and the reasonable amount of those costs.

While the issue of attorney's fees, if appropriate, is normally reserved for the trial court, see Turnberry Associates v. Service Station Aid, Inc., 651 So.2d 1173 (Fla. 1995); Raubvogel v. Credit Suisse Securities, 123 So.3d 1155 (Fla. 4 DCA 2013), the parties can waive this right and have the arbitrator(s) render a finding on entitlement and/or the reasonable amount of the attorney's fees. See Moser v. Barron Chase Securities, Inc. 783 So. 2d 231 (Fla. 2001), and Kesler v. Chatfield Dean & Co., 794 So. 2d 577 (Fla. 2001). Such waiver should be in writing.

- I. The arbitrator(s) shall be compensated pursuant to F.S. 44.103(3), or as agreed to by the arbitrator(s) and the parties. The court reserves the right to convert a Rule 1.800 proceeding into a Rule 1.700 proceeding if compensation becomes a critical issue.
- J. Within 10 days of the final adjournment of the arbitration hearing, the arbitrator(s) shall provide the parties with a written decision pursuant to F.S. 44.103(5). The arbitration decision may set forth in summary fashion the issues in controversy, findings of fact and conclusions of law. The original written decision and the original of any transcripts shall be sealed and filed with the clerk at the time the parties are notified of the decision. The arbitrator(s) shall notify the judge (in writing) that the arbitration decision has been rendered.
- K. Any party may file a motion for trial de novo, pursuant to F.S. 44.103(5) and F.R.Civ.P. 1.820(h). If a motion for trial de novo 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.
- L. If a trial de novo is requested and the judgment at trial is at least 25% less than the decision of the arbitrator(s), the Court may assess the party requesting the trial the other party's expenses, costs and fees, including reasonable attorneys fees. See F. S. 44.103(6).

Copies by mail to:  
Arbitrator

Copies via Clerk's email to:  
counsel of record

updated 3/11/15