

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

**ADMINISTRATIVE ORDER 2020-18.1**

**RE: COURT-ORDERED NONBINDING  
ARBITRATION DURING COVID-19**

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**WHEREAS**, the Florida State Courts System has proactively addressed the effects on court operations of the Coronavirus Disease 2019 (COVID-19), a severe acute respiratory transmission; and

**WHEREAS**, the health, safety, and well-being of courthouse visitors, court employees, and judicial officers are a high priority and we must continue to take steps to mitigate the effects of COVID-19 on the courts, its participants and the general public; and

**WHEREAS**, because of COVID-19, this circuit has suspended all civil jury trials through December 31, 2020<sup>1</sup>; and

**WHEREAS**, given the current circumstances of COVID-19 and the unlikelihood that civil cases will be tried during 2020, referring the parties in a contested civil action to court-ordered nonbinding arbitration may be in the best interest of all parties; and

**WHEREAS**, section 44.103, Florida Statutes, allows a circuit or county judge to refer any contested civil action to nonbinding arbitration; and

**WHEREAS**, Rule 1.810, Florida Rules of Civil Procedure, requires the chief judge or designee to maintain a list of qualified persons who have agreed to serve as arbitrators and to establish the compensation of arbitrators subject to the limitations in section 44.103(3), Florida Statutes; and

**WHEREAS**, Rule 1.820, Fla.R.Civ.P., requires the chief judge to set procedures for determining the time and place of the arbitration hearing, and authorizes the chief judge to establish any other procedures for the expeditious and orderly operation of the arbitration hearings to the extent that the procedures are not in conflict with any rules of court; and

**NOW THEREFORE**, pursuant to the authority vested in me as Chief Judge of the Twelfth Judicial Circuit of Florida, under Rule 2.215 of the Florida Rules of Judicial Administration, it is hereby **ORDERED**:

1. The presiding judge in a civil action may refer any case to court-ordered nonbinding arbitration if the judge has determined that the following criteria are met:
  - a. The case would have been tried during 2020, but due to delays caused by

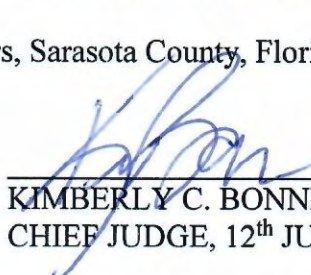
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<sup>1</sup> See Administrative Order 2020-13a.1.



- COVID-19, it is unable to be heard; and
- b. The case is likely to resolve based on the results of nonbinding arbitration; and
  - c. The referral to nonbinding arbitration will not cause any undue financial hardship or burden to either party.
2. The chief judge designates the 12<sup>th</sup> Circuit Alternative Dispute Resolution (ADR) Director responsible for maintaining a list of qualified persons who have agreed to serve as arbitrators. The list shall be available on the 12<sup>th</sup> Circuit website at [www.jud12.flcourts.org](http://www.jud12.flcourts.org).
  3. The parties in cases referred to nonbinding arbitration shall follow the procedures and guidelines set forth in section 44.103, Florida Statutes, and Rules 1.810 and 1.820, Fla.R.Civ.P.
  4. Pursuant to section 44.103(3), Florida Statutes, arbitrators shall be compensated by the parties. Compensation of the arbitrator shall be no more than \$1500 per diem, unless the parties agree otherwise.
  5. An *Order Referring Case to Court-Ordered Nonbinding Arbitration During COVID-19* and *Order Appointing Arbitrator in Court-Ordered Nonbinding Arbitration* shall be entered by the presiding judge. The *Order Appointing Arbitrator in Court-Ordered Nonbinding Arbitration* shall include procedures for determining the time and place of the arbitration hearing. Both orders shall be in substantial compliance with the sample orders attached to the end of this Administrative Order and incorporated by reference.
  6. This Administrative Order is effective immediately and expires December 31, 2020. All *Orders Referring Case to Court-Ordered Nonbinding Arbitration During COVID-19* must be entered by December 31, 2020, however, the *Order Appointing Arbitrator in Court-Ordered Nonbinding Arbitration* and the arbitration itself may occur after that date.
  7. To the extent that any provision of this Administrative Order may be construed as being in conflict with any law, statute or rule, the law, statute or rule shall prevail.

**DONE and ORDERED** in Chambers, Sarasota County, Florida, this 20<sup>th</sup> day of July, 2020.

  
\_\_\_\_\_  
KIMBERLY C. BONNER  
CHIEF JUDGE, 12<sup>th</sup> JUDICIAL CIRCUIT

Original to: Sarasota County Clerk of Court  
Copies to: Manatee County Clerk of Court  
Desoto County Clerk of Court  
All 12<sup>th</sup> Judicial Circuit Judges

All 12<sup>th</sup> Judicial Circuit Bar Associations  
12<sup>th</sup> Circuit ADR Director



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

’  
Plaintiff,

v.

Case No.:

’  
Defendant.

Div.

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**ORDER REFERRING CASE TO COURT-ORDERED NONBINDING ARBITRATION  
DURING COVID-19**

On  the Court’s;  Plaintiff’s;  Defendant’s motion, the Court refers this case to Court-ordered, nonbinding arbitration pursuant to section 44.103, Florida Statutes, and rule 1.820, Florida Rules of Civil Procedure.

In making this referral to nonbinding arbitration, the court has determined that the following criteria are met:

- a. The case would have been tried during 2020, but due to delays caused by COVID-19, it is unable to be heard; and
- b. The case is likely to resolve based on the results of nonbinding arbitration; and
- c. The referral to nonbinding arbitration will not cause any undue financial hardship or burden to either party.

Any consenting member in good standing with The Florida Bar who has been a member of The Florida Bar for at least for the last five preceding years may be appointed arbitrator in this matter. Section 44.103(3) provides an arbitrator’s maximum per diem is \$1500 unless the parties agree otherwise. The Twelfth Circuit maintains a list of individuals willing to serve as arbitrators at: <https://www.jud12.flcourts.org/about/divisions/civil/arbitration>.

There will only be one arbitrator unless the parties agree otherwise. Within 10 days of the date of this Order, the parties shall provide the Court with the name of a mutually agreed-to arbitrator or arbitrators. The Court will then enter an order appointing that individual as arbitrator or those individuals as the arbitrators.

If the parties cannot agree within this timeframe, the parties shall each supply the Court with a list of three proposed arbitrators. The parties shall email their proposed arbitrator lists to the Court’s judicial assistant with copy to all other parties. No party shall include the name of any person on a proposed arbitrator list who does not agree to the statutory \$1500 maximum per diem rate.

The attorneys or their office staff are permitted to contact potential arbitrators about their willingness to serve; however, there shall be no communication concerning any information

about the case. Nothing in this order obviates the Court's order requiring mediation. Please note, the parties may not combine the nonbinding arbitration with the mediation.

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

\_\_\_\_\_  
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:

\_\_\_\_\_  
Judicial Assistant



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

,  
Plaintiff,

v.

Case No.:

,  
Defendant.

Div.

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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:

\_\_\_\_\_  
Judicial Assistant