

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR HARDEE, HIGHLANDS, AND POLK COUNTIES, FLORIDA

ADMINISTRATIVE ORDER NO. 3-39.0

IN RE: PROCEDURES FOR NON-BINDING ARBITRATION

WHEREAS, section 44.103, Florida Statutes, provides that a court may refer any contested civil action to non-binding arbitration in accordance with rules adopted by the Florida Supreme Court; and

WHEREAS, Florida Rule of Civil Procedure 1.800 excludes certain matters from arbitration; Rule 1.810 provides for the selection and compensation of arbitrators; and Rule 1.820 establishes certain hearing procedures for non-binding arbitration and authorizes the chief judge to establish other procedures for the expeditious and orderly operation of the arbitration hearing; and

WHEREAS, in accordance with section 44.103(5), Florida Statutes, and Florida Rule of Civil Procedure 1.820(g)(3), it is necessary to provide a method by which the arbitration decision may be filed under seal with the clerk so that the decision is not made known to the presiding judge unless no timely request for a trial *de novo* is made; and

WHEREAS, in accordance with the authority vested in the chief judge under article V, section 2(d), Florida Constitution; section 43.26, Florida Statutes; and Florida Rule of Judicial Administration 2.215(b)(2), it is ORDERED:

1. Approval and Selection of Arbitrators

- A. Pursuant to Florida Rule for Court-Appointed Arbitrators 11.130, arbitrators serve at the pleasure of the Chief Judge. Therefore, the Chief Judge shall approve applicants for addition to the list of individuals qualified to serve as arbitrators for circuit and county civil matters. The Court's Alternative Dispute Resolution Services program will maintain a list of qualified persons who have agreed to serve as arbitrators.
- B. Qualified individuals seeking to serve as an arbitrator for circuit and/or county court civil matters are required to complete the "Arbitrator Application for the Tenth Judicial Circuit Court of Florida." A copy of the application is attached hereto as Exhibit A. The application is also available on the Court's website. Completed applications should be returned to the Chief Judge at the address on the application. The application may be amended as needed to update the name and address of the Chief Judge without the need to amend this Order.
- C. Only arbitrators who meet the qualifications set forth in Florida Rules for Court-Appointed Arbitrators 11.010 and 11.020 shall be approved by the Chief Judge and appointed by the presiding judge in civil actions. The individuals meeting the qualifications of Florida Rules for Court-Appointed Arbitrators 11.010 and 11.020

shall be separately designated on the list of qualified arbitrators as either a member of The Florida Bar or not a member of The Florida Bar.

2. Order of Referral to Non-Binding Arbitration

The required order of referral to non-binding arbitration and the notice of arbitration hearing for civil actions are attached hereto as Exhibit B and the procedures and requirements of non-binding arbitration are incorporated by reference.

3. Exclusions from Non-Binding Arbitration

Categories of actions listed in Florida Rules of Civil Procedure 1.800 are excluded from arbitration.

4. Scheduling of Arbitration Hearing(s)

If the parties cannot stipulate to the date, time and location of the arbitration hearing, the presiding judge will decide these matters. Unless otherwise ordered by the presiding judge, a hearing must be scheduled within twenty (20) days of the date of the order referring parties to nonbinding arbitration and the hearing must be held within ninety (90) days of the order. Any additional hearings will be held in accordance with the time standards set forth in Florida Rule of Civil Procedure 1.820.

5. Case Summary

Unless the arbitrator directs otherwise, the parties must each submit a case summary to each arbitrator no later than ten (10) days before the scheduled hearing.

6. Presentation

The hearing will be conducted in an informal manner. While it is expected that presentation of the case will be made primarily by counsel for the parties and will be in the form of an opening and closing statement at trial, witnesses may be present and give live testimony as they would in a regular trial. If counsel for the parties opt for the abbreviated form of hearing, counsel will present only factual representations supportable by reference to discovery materials, signed statements of witnesses, stipulations and other documents.

7. Compensation

Arbitrators will be compensated in accordance with section 44.103, Florida Statutes, and Rule 11.100 of the Florida Rules for Court-Appointed Arbitrators. Payment must be made directly to the arbitrator by the conclusion of the arbitration hearing. The parties shall be equally responsible for compensation.

8. Arbitration Decision

A. Within ten (10) days of the final adjournment of the arbitration hearing, the arbitrators must notify the parties or their counsel of the arbitrators' decision by

service in accordance with Florida Rule of Judicial Administration 2.516. At the time the parties are served with the decision, the arbitrators must file the decision with the Clerk of the Circuit Court (clerk). Arbitrators are required to file their decision and transcripts (if any) under seal so that the decision is not made known to anyone, including the presiding judge.

- B. Decision Filed by Hard Copy: The chief arbitrator must file a hard copy of the decision with the clerk by submitting it in a separate sealed manila envelope labeled “Nonbinding Arbitration Decision” followed by the style of the case and case number. The face of the envelope must indicate that the contents are exempt from public access in accordance with Florida Rule of Civil Procedure 1.820(g)(3). Upon receipt, the clerk will stamp the outside of the manila envelope with the date and time of filing and document the date and time of filing in the clerk’s case maintenance system. Since the decision and any transcripts are filed under seal, the clerk will not make the arbitrator’s decision or transcripts known to anyone, including the presiding judge, unless no request for trial de novo is filed within twenty (20) days of service on the parties of the decision and the presiding judge request the decision. If a request for trial de novo is timely filed, the clerk will continue to maintain the arbitrators' decision under seal.

9. Statistical Summary

The arbitrator shall file the statistical summary attached as Exhibit C within twenty (20) days after the time for filing any motions directed to the written decision has expired. If an arbitrator fails to submit the statistical summary to the Court's Alternative Dispute Resolution Services Program, then in the discretion of the Chief Judge, the arbitrator may be removed from the list of qualified arbitrators for this Circuit.

10. Effective Date

This administrative order is effective upon signing.

DONE and ORDERED in Bartow, Florida, on this 20th day of July, 2022.

s/ELLEN S. MASTERS, Chief Judge

Original:
Polk County Clerk of

Copies:
All Judges
Polk County Clerk of Court
Hardee County Clerk of Court
Highlands County Clerk of Court
Trial Court Administrator
Alternative Dispute Resolution Director

EXHIBIT A

**ARBITRATOR APPLICATION FOR
THE TENTH JUDICIAL CIRCUIT COURT OF FLORIDA**

Instructions: This application must be filled out in its entirety if you wish to be considered for inclusion on the list of qualified arbitrators for the Tenth Judicial Circuit Court of Florida. Please print legibly or type. A copy of your Florida Supreme Court arbitration training certificate and, if applicable, a copy of your Florida Bar Card must be included with your application. Please attach a copy of your current resume or curriculum vitae and a statement as to any experience you have as an arbitrator. You must return the application with supporting documentation to:

Office of the Chief Judge
Polk County Courthouse
P.O. Box 9000
Bartow, Florida 33831-9000

Full Legal Name:	
Principle Business Address:	
Business Address:	
Business Phone:	
Business Fax:	

Member of The Florida Bar? Yes No

Completed Florida Supreme Court approved Arbitration Training? Yes No

Check all counties for which you are seeking appointment:

Hardee Highlands Polk

Check all types of cases for which you are seeking appointment:

Consumer Contract Eminent Domain Employment

Malpractice Personal Injury Products Liability Property Damage

PIP Other (please indicate) _____

Real Property/Mortgage Foreclosure

Signature of Applicant

Date Signed

EXHIBIT B

IN THE COUNTY COURT IN AND FOR _____ COUNTY, FLORIDA

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Case Number: _____

Section: _____

Plaintiff,

v.

Defendant.

_____ /

ORDER REFERRING CASE TO ARBITRATION

THE COURT sua sponte/ upon the motion of a party, hereby refers the above captioned matter to non-binding arbitration as authorized by statute and rules of procedure. It is ORDERED as follows:

1. Arbitration shall be conducted in compliance with Administrative Order 3-39.0 (as may be amended), Florida Rules of Civil Procedure 1.800, 1.810, 1.820, and section 44.103, Florida Statutes.
2. The parties shall within fifteen (15) days of the date of this Order select a single arbitrator from those individuals authorized to conduct arbitrations for this county/circuit. The single arbitrator will be designated the Chief Arbitrator. The parties shall file the original joint notice of the name, address, and telephone number of the selected arbitrator with the Court's Alternative Dispute Resolution Services Program, P.O. Box 9000, Drawer J-112, Bartow, Florida 33831-9000. The parties shall share equally in the costs and fees of the arbitrator.

In the alternative, the parties may agree to the use of a three-arbitrator panel. Each party shall select an arbitrator authorized to conduct arbitrations for this county/circuit and notify the Court and all other parties in writing of the name and address of the arbitrator selected. The arbitrators selected shall meet either telephonically, electronically, or in person, within ten (10) days and select an arbitrator authorized to conduct arbitrations for this county/circuit who shall be the presiding or chief arbitrator. Each party shall be responsible for all fees or cost charged by the arbitrator selected by the party and shall share equally in the costs and fees of the presiding or chief arbitrator. If the parties

cannot agree to the selection of arbitrator(s), the Court appoints the following single arbitrator:

Chief Arbitrator:

Name:	
Address:	
Telephone Number:	

3. The parties shall provide the chief arbitrator with a copy of this Order.
4. The first arbitration hearing shall be held within sixty (60) days of the date of this Order in _____ County, Florida.
5. The chief arbitrator shall notify the parties of the date, time and place of the arbitration hearing within thirty (30) days of this Order. The form Notice of Arbitration Hearing is attached, and all terms are incorporated by reference into this Order.
6. Arbitration hearing(s) will be completed within _____ hour(s)/day(s), unless otherwise agreed to by the parties.
7. Authority of the Chief Arbitrator: The chief arbitrator shall have authority to commence and adjourn the arbitration hearing and carry out other such duties as are prescribed by Section 44.103, Florida Statutes. The chief arbitrator shall not have the authority to hold any person in contempt or to in any way impose sanctions against any person.
8. Required Attendance: Individual parties or authorized representatives of corporate parties shall attend the arbitration hearing unless excused in advance by the Court for good cause shown. Lead counsel for parties shall also attend the arbitration hearing unless excused in advance by the Court for good cause shown. Additionally, a representative of the insurance carrier for any insured party who is not such carrier's outside counsel shall also attend the arbitration hearing unless excused in advance by the Court for good cause shown. When a party fails to appear at a hearing, the chief arbitrator may proceed with the hearing and a decision shall be rendered based on the facts and circumstances as presented by the parties present.
9. Rules of Evidence: The arbitration hearing shall be conducted informally. Presentation of testimony shall be kept to a minimum, and matters shall be presented to the arbitrators(s) primarily through the statements and arguments of counsel.
10. If there is lack of cooperation and/or a failure to meet the time limits imposed by this Order, the chief arbitrator shall file a Notice of Non-Compliance and shall serve same upon counsel for each party and all self-represented parties with a courtesy copy to the undersigned Judge and the Court's Alternative Dispute Resolution Services program.

11. The chief arbitrator shall complete the Arbitrator Statistical Summary Form and return it to the Court's Alternative Dispute Resolution Services program within twenty (20) days after the time for filing any motions directed to the written decision has expired.

DONE AND ORDERED on this _____ day of _____, 20 ____.

County Judge/Circuit Judge

Copies:

Counsel of Record

Parties of Record (counsel only if represented)

Alternative Dispute Resolution Services, P.O. Box 9000, Drawer J-112, Bartow, FL 33831-9000

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact _____ [name of ADA coordinator for arbitrator] _____ [address, telephone number of ADA coordinator for arbitrator], at least 7 days prior to your scheduled appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

- IN THE COUNTY COURT IN AND FOR _____ COUNTY, FLORIDA
- IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Case Number: _____

Section: _____

Plaintiff,

v.

Defendant.

_____ /

ARBITRATOR ACCEPTANCE FORM

In accordance with the Order Referring Case to Arbitration:

- The undersigned parties hereby agree to the single arbitrator assigned by the Judge.
- The undersigned parties **did not agree to the single arbitrator** selected by the Judge. Within fifteen (15) days of the signed Order Referring Case to Arbitration, they have selected the following arbitrator(s) (if panel chosen, identify the chief arbitrator):

Chief Arbitrator:

Name:	
Address:	
Telephone Number:	

2nd Arbitrator (if applicable):

Name:	
Address:	
Telephone Number:	

3rd Arbitrator (if applicable):

Name:	
Address:	
Telephone Number:	

Attorney for Plaintiff(s)/Plaintiff(s) Signature

Date Signed

Attorney for Defendant(s)/Defendant(s) Signature

Date Signed

Return Original To: ADR Director, P.O. Box 9000, Drawer J-112, Bartow, FL 33831-9000

IN THE COUNTY COURT IN AND FOR _____ COUNTY, FLORIDA

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Case Number: _____

Section: _____

Plaintiff,

v.

Defendant.

_____ /

NOTICE OF ARBITRATION HEARING

You are hereby notified that the court-ordered arbitration in this matter shall take place as follows:

Name of Chief Arbitrator:	
List Names of other Arbitrators (applicable for panel arbitrations):	
Address of Arbitration:	
Date of Arbitration:	
Time of Arbitration:	

Arbitration Procedures

1. The parties and arbitrator shall comply with Florida Rules of Civil Procedure 1.700, 1.800, 1.810, and 1.820.
2. The parties and arbitrator shall comply with section 44.103, Florida Statutes.
3. The arbitrator shall be compensated in an amount not to exceed \$1,500.00 per day, unless otherwise agreed to by the parties and arbitrator. The parties shall equally be responsible for the arbitrator's compensation.
4. A minimum fee of \$175.00 shall be paid to the arbitrator ten (10) days prior to the commencement of arbitration. The parties shall equally be responsible for the arbitrator's minimum compensation.
5. Any compensation due the arbitrator upon conclusion of the hearing shall be equally paid by the parties.
6. The arbitrator shall have the power to administer oaths or affirmations and conduct the arbitration proceedings.

7. Individual parties or authorized representatives of corporate parties shall attend the arbitration hearing, unless excused in advance for good cause by the arbitrator. If a party, an authorized representative of a corporate party, or an attorney for any party fails to attend an arbitration hearing, the arbitrator may proceed with the arbitration hearing and enter his or her written decision.
8. When the parties, attorneys, and witnesses are at the arbitration hearing, the arbitrator shall make all decisions with regard to the proceedings.
9. The arbitration hearing shall be conducted as follows:
 - a. each party will present an opening statement;
 - b. each party will present evidence or testimony;
 - c. each party will present a final summation.
10. The arbitrator in his or her decision shall indicate which party prevailed on each claim, counterclaim, or crossclaim. The arbitrator's decision shall also indicate if a party is required to pay costs or attorney's fees, as applicable, and the amount of the fees and costs to be awarded.
11. The arbitrator shall file his or her decision and the original of any transcripts with the Clerk of the Courts in a sealed envelope and on the face of the envelope indicate the contents are exempt from public access pursuant to Florida Rule of Civil Procedure 1.820 (g) (3).
12. Florida Rules of Civil Procedure 1.080 and 1.090 shall govern the manner in which the arbitrator shall serve his or her decision upon the parties and the time by which the parties must file any motions directed to the decision. A copy of any motion directed to the decision shall also be served upon the arbitrator.

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by hand delivery/ mail/ fax and mail upon _____

on _____, 20_____.

Signature of Arbitrator: _____

Printed Name of Arbitrator: _____

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact _____ [name of ADA coordinator for arbitrator] _____ [address, telephone number of ADA coordinator for arbitrator], at least 7 days prior to your scheduled appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

EXHIBIT C

ARBITRATION STATISTICAL SUMMARY

Style of Case:		
Case Number:		
Judge:		<input type="checkbox"/> Circuit <input type="checkbox"/> County
Date of Arbitration:		
Number of Hearing(s):		
Hours:		

Type of Case (primary basis for lawsuit):

- Consumer
 - Contract
 - Eminent Domain
 - Employment
 - Malpractice
 - PIP
 - Personal Injury
 - Products Liability
 - Property Damage
 - Real Property/Mortgage Foreclosure
 - Other (please indicate below)
-

A party to the arbitration filed a motion seeking a trial de novo after no later than twenty (20) days after the final decision was served? Yes No

Signature of Arbitrator: _____ Date _____

Printed Name of Arbitrator: _____

Return To: ADR Director, P.O. Box 9000, Drawer J-112, Bartow, FL 33831-9000