Third Amended Administrative Order Establishing Court Ordered Non-Binding Arbitration

Administrative Order — Fifth Judicial Circuit

a-2008-08

Effective 2024-05-03

IN THE CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT

OF THE STATE OF FLORIDA

ADMINISTRATIVE ORDER NO. A-2008-08-C

THIRD AMENDED ADMINISTRATIVE ORDER ESTABLISHING COURT

ORDERED NON-BINDING ARBITRATION IN THE FIFTH JUDICIAL

CIRCUIT

WHEREAS, section 44.103, Florida Statutes, permits a court to refer any contested civil action filed in a circuit or county court to arbitration without the consent of the parties, in much the same way as cases are routinely ordered and referred to mediation; and

WHEREAS, Rule 1.810(a), Florida Rules of Civil Procedure, requires the Chief Judge, or designee, to maintain a list of qualified persons who have agreed to serve within the Circuit as arbitrators under section

44.103, Florida Statutes; and

WHEREAS, 11.010, Florida Rules of Court-Appointed Arbitrators provides that arbitrators shall be members of the Florida Bar, except where otherwise agreed by the parties, and the chief arbitrator shall have been a member of The Florida Bar for at last five years; and

WHEREAS, 11.020, Florida Rules of Court-Appointed Arbitrators, provides that all arbitrators shall attend 4 hours of training in a program approved by the Supreme Court of Florida, unless the parties agree to waive the training requirement. Any former Florida trial judge who has not completed the training shall be exempt from the training requirements upon submission of documentation of such experience to the chief judge;

and

WHEREAS, Rule 1.820(b)(1), Florida Rules of Civil Procedure, requires the Chief Judge to set procedures for determining the time and place for arbitration; and

WHEREAS, Rule 1.810(b), Florida Rules of Civil Procedure, requires the Chief Judge to establish the compensation rate for court ordered, nonbinding arbitration subject to the limitations in Section 44.103(3) Florida

Statutes;

NOW THEREFORE IT IS ORDERED as follows:

1) Pursuant to §44.103, Florida Statutes, and Florida Rules of Civil

Procedure 1.700(1), 1.800 and 1.829(b)(1), the Fifth Judicial

Circuit hereby establishes these procedures to facilitate the use of non-binding arbitration in contested civil actions filed in Circuit

Court except as prohibited by law. At the discretion of the

Presiding Judge, any such civil action, or part thereof, may be referred to non-binding arbitration, except for those matters excluded from non-binding arbitration as set forth in Rule 1.800,

Florida Rule of Civil Procedure.

2) A list of approved and qualified court appointed arbitrators shall be posted and maintained on the Fifth Judicial Circuit website located at www.circuit5.org. Those persons listed on the registry are hereby deemed eligible and qualified to accept and serve as court appointed arbitrators in Circuit Civil cases as stated in

Florida Rule of Civil Procedure 1.800 and medical malpractice and related cases which are governed by section 766.107, Florida

Statutes.

3) The ADR Director in and for the Fifth Judicial Circuit, as the Chief

Judge's designee, shall maintain a list of persons who are qualified, by the terms of this Order, to serve as arbitrators in this

Circuit. To be listed as a qualified arbitrator for the Fifth Judicial

Circuit, the applicant must be a member of The Florida Bar for at least five (5) years, must have completed the Supreme Court of

Florida Approved Arbitration Training Program, and must satisfy the qualifications and training requirements as set forth in Florida

Rules of Arbitration 1.1.010,11.020, and 11.110. Attorneys who wish to be added to the list of qualified arbitrators must submit an official application found on the circuit's website to the ADR

Director via email or U.S. Mail after approval, the individual shall be added to the list of appointment of qualified arbitrators in the

Fifth Judicial Circuit. The list of qualified arbitrators shall be designated as the "Fifth Judicial Circuit List of Qualified

Arbitrators" and shall be posted on the Fifth Judicial webpage and provided to all Judges in the Fifth Judicial Circuit. Any and all updates to the list shall be the responsibility of the ADR Director.

4) Individual interested in participating in the Fifth Circuit Court

Appointed Arbitration Program can obtain information from the

Florida Dispute Resolution Center at www.flcourts.gov regarding the next available Supreme Court Training for Court Appointed

Arbitrators.

5) The Court shall determine the need for referral to arbitration on a case-by-case basis. Upon determination of the need to refer a case to non-binding arbitration, the Court shall enter an “Order

Referring Case to Non-Binding Arbitration". The "Order Referring

Case to Non-Binding Arbitration", attached hereto as Attachment "A" shall be utilized and entered by the Presiding Judge. The parties shall have ten (10) days from the date of the Order

Referring Case to Non-Binding Arbitration to select an approved arbitrator and provide said preference in writing to the Office of the Circuit Judge who issued the said order. The preferred arbitrator must be selected from the list available on the website.

If the parties cannot agree on a choice of arbitrator, after ten (10) days the Circuit Court Judge referring the case shall appoint an arbitrator selected by rotation from the Fifth Judicial Circuit List of Qualified Arbitrators.

6) Arbitration shall be conducted in accordance with the rules of practice and procedures adopted by the Supreme Court of Florida as well as with all orders and directives of the

presiding Judge and the provisions of this Administrative Order. The time, place and duration of the arbitration shall be set by the arbitrator/chief arbitrator after consultation with the parties and their attorneys.

Reasonable notice thereof shall be given to the parties by the arbitrator in a Notice of Arbitration Hearing which shall be filed in the court file and served on all parties. All parties and their respective attorneys shall attend the arbitration proceeding.

Failure to appear on the part of any party or attorney shall immediately be reported to the Presiding Judge by the arbitrator, in writing, and may result in the imposition of appropriate sanctions.

7) Arbitrators conducting court ordered non-binding arbitration in this Circuit shall be compensated in an amount of $200.00 per hour but shall not exceed One Thousand five Hundred Dollars ($1,500.00) per day unless otherwise agreed by the parties. For purpose of compensation, a day of compensation shall consist of eight (8) hours of arbitration. If the parties agree to exceed the

One Thousand Five Hundred Dollar ($1,500.00) cap, approval by the Court is presumed and a hearing for approval is not required.

However, said agreement shall be in writing with a copy filed in the

Court file. Arbitration fees shall be equally divided between the parties unless otherwise agreed or ordered by the Court.

8) As stated in Florida Rule of Civil Procedure 1.700, the Order

Referring Case to Non-Binding Arbitration may provide for arbitration to be conducted in person, through the use of communication technology as that term is defined in Florida Rule of General Practice and Judicial Administration 2.530, or by a combination thereof. Absent direction in the order of referral, arbitration must be conducted in person, unless the parties stipulate or the court, on its own motion or on motion by a party, otherwise order that the proceeding be conducted by communication technology or by a combination of communication technology and in-person participation.

9) The arbitration decision shall be in writing and shall be presented to the parties. The arbitrator's decision and the originals of any transcripts shall be sealed and filed with the Clerk of the Court at the time parties are notified of the decision. The arbitration decision shall be titled, "ORDER ON ARBITRATION" and shall consist of a full, complete, detailed finding including a statement of facts, outlining the issues presented at arbitration, analysis of the law to the facts and a conclusion/decision.

IT IS SO ORDERED in Chambers, in Brooksville, Hernando County,

Florida, on this 3rd of May, 2024.

DANIEL B. MERRITT, JR.

CHIEF JUDGE

FIFTH JUDICIAL CIRCUIT

Attachments: "A" Order Referring Case to Non-Binding Arbitration

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

IN AND FOR COUNTY, STATE OF FLORIDA

VS. Case No.:

ORDER REFERRING CASE TO NON-BINDING ARBITRATION

Pursuant to Amended Administrative Order Number A-2008-08-C, Rules

1.700, 1.800, 1.810, 1.820 Fl. R. Civ. P." rules 11.010, 11.020, Fla. R. Arb. and

§44.103, Fla., Stat., this action is hereby referred to non-binding arbitration by

() One Arbitrator () Three Arbitrator Panel

which shall be conducted in accordance with aforementioned authorities and all applicable rules of practice and procedure adopted by the Supreme Court of

Florida. The Scope of this referral includes:

() all claims () the following claims only:

Counsel shall within ten (10) days from the date of this Order select a mutually agreed upon arbitrator from the Fifth Judicial Circuit List of Qualified

Arbitrators (found at Circuit5.org) and shall notify the Court, in writing of the same. Counsel for Plaintiff shall be responsible for providing the selected arbitrator with a copy of this Order. Failure to agree on an arbitrator or failure to advise the Court of the preferred arbitrator shall result in this court selecting an arbitrator by rotation.

The arbitration hearing shall be conducted within days from the date of this Order. The arbitrator/chief arbitrator shall file and serve a Notice of

Arbitration Hearing in accordance with the requirements of Administrative Order Number A-2008-08-C.

DONE AND ORDERED this day of , 20.

Circuit Judge

Cc: Parties

Attachment "A" to Administrative Order A-2008-08-C

Amended