



DONNA GREENSPAN SOLOMON

Martinez v. Ring-Cent., Inc., 392 So. 3d 569 (Fla. 4th DCA 2024).

Federal Arbitration Act (FAA) three-month deadline for filing motion to vacate arbitration award did not preempt 90-day deadline in Florida Arbitration Code (FAC).

Eglin Fed. Credit Union v. Baird, 49 Fla. L. Weekly D1795 (Fla. 1st DCA Aug. 28, 2024).

Emailed notice of newly-added arbitration and class-action waiver provisions in member's agreement with not-for-profit cooperative and financial institution did not provide member with reasonable notice of new terms, such that she did not mutually assent to arbitration; notice was a hyperlink buried in routine monthly account statement email, which indicated only that it would link to cooperative's quarterly newsletter, email said nothing about changing terms of agreement or that member should have followed the hyperlink for important updates, email made no mention of arbitration or class-action waiver provisions, and even if she had followed the link, newsletter did not provide new terms either.

Patterson v. Melman, 49 Fla. L. Weekly D1895 (Fla. 2d DCA Sept. 13, 2024).

Real estate agents' refusal to participate in mediation before pursuing arbitration to resolve claims brought by vendors of duplexes after potential purchaser canceled purchase agreement did not constitute waiver of right to arbitrate under terms of listing agreement, even though mediation was purported condition precedent for pursuing arbitration; by demanding arbitration as appropriate forum to resolve dispute, even if prematurely, agents indicated that they wanted to arbitrate dispute, which could not be seen as having acted inconsistently with arbitration right or having affirmatively manifested acceptance of judicial forum, and, unlike waiver, which was irrevocable without consent of opposing parties, agents could cure failure to perform condition precedent by fulfilling it.

Arbitration Case Law Update

Osborne v. Drees Homes of Florida, Inc., 49 Fla. L. Weekly D2151 (Fla. 5th DCA Oct. 25, 2024).

Orders denying motions for arbitration are reviewed de novo, except that factual findings are reviewed for support by competent, substantial evidence.

GMRI, Inc. v. Brautigam, 392 So. 3d 1098 (Fla. 1st DCA 2024).

Arbitration agreement does not need to be signed to satisfy written agreement requirement of Federal Arbitration Act (FAA); if party moving to compel arbitration cannot show signed agreement to arbitrate exists, court must examine party's words and conduct to determine whether party assented to agreement.

City of Naples v. Wolff, 391 So. 3d 617, 618 (Fla. 6th DCA 2024).

Trial court was authorized to grant extension of deadline to request trial de novo following issuance of nonbinding arbitration award.

Boca View Condo. Ass'n, Inc. v. Lepselter, 392 So. 3d 144 (Fla. 4th DCA 2024), review denied, No. SC2024-1404, 2024 WL 4903515 (Fla. Nov. 27, 2024).

Attorney's fees incurred in enforcement of provisions of arbitration award are compensable under statute providing that a party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney's fees, incurred after arbitration hearing if judgment upon trial de novo was not more favorable than the arbitration decision.

Lawnwood Med. Ctr., Inc. v. Rouse, 394 So. 3d 51 (Fla. 4th DCA 2024).

Party rejecting arbitrator's decision and renewing demand for trial must, within 20 days of arbitrator's decision, file request for trial de novo or motion for trial.

Calvert v. Aleckson, 49 Fla. L. Weekly D2152 (Fla. 5th DCA Oct. 25, 2024).

An appeal taken from an order denying a motion to

compel arbitration becomes moot when a new complaint is filed.

N. Shore Med. Ctr. v. Navarro, 389 So. 3d 785 (Fla. 1st DCA 2024).

Expert testimony regarding the nature and impact of patient's stroke before presenting at hospital was admissible in binding damages arbitration.

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Donna Greenspan Solomon was the first attorney certified by The Florida Bar as both Business Litigator and Appellate Specialist. Donna is a Member of the National Academy of Distinguished Neutrals and serves as a Chair on AAA (Commercial Panel) and FINRA arbitrations. She is a Certified Circuit, Appellate, and Family Mediator and Florida Supreme Court Qualified Arbitrator. Donna is also a Member of the Florida Supreme Court Committee on Standard Jury Instructions—Contract and Business Cases. Donna can be reached at (561) 762-9932 or Donna@SolomonAppeals.com or by visiting www.solomonappeals.com.

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