

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CIVIL DIVISION**

STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION,

Plaintiff,

v.

CASE NO.: 50-2021-CA-008718-XXXX-MB

NATIONAL SENIOR INSURANCE, INC.
D/B/A SEEMAN HOLTZ,
MARSHAL SEEMAN,
CENTURION INSURANCE SERVICES GROUP, LLC,
BRIAN J. SCHWARTZ,
EMERALD ASSETS 2018, LLC,
INTEGRITY ASSETS 2016, LLC,
INTERGRITY ASSETS, LLC,
PARA LONGEVITY 2014-5, LLC,
PARA LONGEVITY 2015-3, LLC,
PARA LONGEVITY 2015-5, LLC,
PARA LONGEVITY 2016-3, LLC,
PARA LONGEVITY 2016-5, LLC,
PARA LONGEVITY 2018-3, LLC,
PARA LONGEVITY 2018-5, LLC,
PARA LONGEVITY 2019-3, LLC,
PARA LONGEVITY 2019-5, LLC,
PARA LONGEVITY 2019-6, LLC,
PARA LONGEVITY VI, LLC,
SH GLOBAL, LLC N/K/A PARA LONGEVITY V, LLC,
ALTRAI GLOBAL, LLC A/K/A ALTRAI HOLDINGS, LLC,
VALENTINO GLOBAL HOLDINGS, LLC,
AMERITONIAN ENTERPRISES, LLC,
SEEMAN-HOLTZ CONSULTING CORP.,
CENTURION ISG Holdings, LLC,
CENTURION ISG Holdings II, LLC,
CENTURION ISG (Europe) Limited,
CENTURION ISG SERVICES, LLC,
CENTURION ISG FINANCE GROUP, LLC,
CENTURION FUNDING SPV I LLC,
CENTURION FUNDING SPV II LLC,
GRACE HOLDINGS FINANCIAL, LLC,
PRIME SHORT TERM CREDIT INC.,

Defendants.

THE ESTATE OF ERIC CHARLES HOLTZ,

SEEMAN HOLTZ PROPERTY AND CASUALTY, LLC
F/K/A SEEMAN HOLTZ PROPERTY AND CASUALTY, INC.,
SHPC HOLDINGS I, LLC,

Relief Defendants.

**RECEIVER’S MOTION FOR AN ORDER ESTABLISHING
PROCEDURES AND SCHEDULING ORDERS GOVERNING
RECOVERY ACTIONS BY THE RECEIVER**

Daniel J. Stermer, as Court-appointed Receiver (the “**Receiver**”) for the property, assets, and business of the thirty-two (32) Receivership entities (collectively, the “**Consenting Corporate Defendants**”)¹, files this *Motion for Order Establishing Procedures and Scheduling Orders Governing Recovery Actions By the Receiver by the Receiver* (the “**Procedures Motion**”) seeking the entry of the proposed order (the “**Proposed Procedures Order**”) establishing procedures for recovery actions to be brought/commenced by the Receiver, and as good cause states:

Jurisdiction and Venue

1. The Court has jurisdiction over this Procedures Motion pursuant to the Order Appointing Receiver (defined below), and the authority provided by Fla. Civ. P. Rules 1.200, 1.700, and 1.270.

2. The Order Appointing Receiver expressly provides:

38. Except for proceedings commenced by the Receiver (“Supplemental Proceedings”), all Ancillary Proceedings remain stayed in their entirety, and all courts,

¹ The Consenting Corporate Defendants include: NATIONAL SENIOR INSURANCE, INC. D/B/A SEEMAN HOLTZ, CENTURION INSURANCE SERVICES GROUP, LLC, EMERALD ASSETS 2018, LLC, INTEGRITY ASSETS 2016, LLC, INTERGRITY ASSETS, LLC, PARA LONGEVITY 2014-5, LLC, PARA LONGEVITY 2015-3, LLC, PARA LONGEVITY 2015-5, LLC, PARA LONGEVITY 2016-3, LLC, PARA LONGEVITY 2016-5, LLC, PARA LONGEVITY 2018-3, LLC, PARA LONGEVITY 2018-5, LLC, PARA LONGEVITY 2019-3, LLC, PARA LONGEVITY 2019-5, LLC, PARA LONGEVITY 2019-6, LLC, PARA LONGEVITY VI, LLC, SH GLOBAL, LLC N/K/A PARA LONGEVITY V, LLC, VALENTINO GLOBAL HOLDINGS, LLC, AMERITONIAN ENTERPRISES, LLC, SEEMAN-HOLTZ CONSULTING CORP., CENTURION ISG HOLDINGS, LLC, CENTURION ISG HOLDINGS II, LLC, CENTURION ISG (EUROPE) LIMITED, CENTURION ISG SERVICES, LLC, CENTURION ISG FINANCE GROUP, LLC, CENTURION FUNDING SPV I LLC, CENTURION FUNDING SPV II LLC, PARA GLOBAL 2019, LLC, ALLOY ASSETS, LLC, SEEMAN HOLTZ WEALTH MANAGEMENT, INC., AGENCY ACQUISITION FUNDING, LLC, and AMERICA’S FAVORITE INSURANCE SERVICES LLC.

arbitration tribunals or other forum having any jurisdiction thereof are enjoined from taking or permitting any action until further Order of this Court.

39. All proceedings and/or Supplemental Proceedings commenced by the Receiver shall be filed and/or heard before this Court and/or shall be subject to assignment by the Clerk to this Court.

40. Any and all Supplemental Proceedings commenced by the Receiver shall be brought as follows:

(1) The Florida Rules of Civil Procedure shall apply to Supplemental Proceeding(s), except where inconsistent with the provisions of this order.

(2) The Clerk of the Court shall docket a Supplemental Proceeding under this matter's case number, and a separate Supplemental Proceeding number, and shall assign such supplemental proceeding to this Court's division.

(3) All pleadings and other papers filed in a Supplemental Proceeding shall contain a separate sub-caption and the Supplemental Proceeding number in addition to the caption and the case number applicable to the main case.

See Order Appointing Receiver at 24, ¶¶ 38-40.

Background

3. On July 12, 2021, the OFR filed a *Complaint for Temporary and Permanent Injunction, Appointment of Receiver, Restitution, Civil Penalties, and Other Statutory and Equitable Relief* (the "**Complaint**") against the Consenting Corporate Defendants, certain individuals and other entities, and Relief Defendants (the "**OFR Action**"). The Complaint seeks entry of a judgment to restrain acts and practices of the Defendants, including the Consenting Corporate Defendants, from violations of various provisions of Chapter 517, Florida Statutes, including sections 517.301, 517.12 and 517.07, and "halt the securities fraud scheme and common enterprise operated and controlled by Defendant Marshal Seeman ("**Seeman**") and Seeman's deceased business partner, Eric Charles Holtz ("**Holtz**")." The Complaint also seeks entry of a judgment against the Consenting Corporate Defendants in the form of the appointment of a receiver, restitution, an award of civil penalties, and disgorgement of ill-gotten gains and unjust enrichment.

4. The Complaint alleges that Seeman and Holtz were assisted in the scheme and enterprise (the “**SH Enterprise**”) by Defendant, Brian J. Schwartz (“**Schwartz**”)², who allegedly acted as the SH Enterprise’s untitled chief financial officer. The Complaint further alleges that as part of the SH Enterprise, Seeman, Holtz and Schwartz created and operated a myriad of corporate entities, certain of which are named as Defendants or Relief Defendants in the Complaint and certain of which are no longer active corporate entities; that the SH Enterprise raised more than \$400 Million in capital since 2011, through the sale of unregistered securities in the form of purportedly secured promissory notes which were purportedly secured by viaticated life settlement policies and other insurance-related assets; that investors were misled regarding the SH Enterprise’s profitability, the existence of sufficient life settlements and other assets securing their investments and the perfection of security interests in those assets; and that the SH Enterprise is a scheme in which new investor monies were commingled within the common enterprise and used to repay prior investors in the ongoing scheme thereby providing the appearance of profitability.³

5. On September 10, 2021, the OFR filed a *Consent Motion for Appointment of Corporate Monitor*, seeking the appointment of the Corporate Monitor for the property, assets, and businesses of the initial Consenting Corporate Defendants, as well as a temporary injunction against the Consenting Corporate Defendants and two natural-person Defendants, Marshal Seeman and Brian J. Schwartz (the “**Consenting Individual Defendants**”).

6. On September 14, 2021, the Court entered an *Agreed Order Granting Plaintiff’s Consent Motion for Appointment of Corporate Monitor and Related Injunctive Relief* (the

² Mr. Schwartz is now deceased.

³ The Receiver aware that the Individual Defendants dispute the allegations. Further, the Consenting Corporate Defendants, while they consented to the entry of the Order, did not admit the allegations in the Complaint. *See* Order at ¶ 62 (“Nothing in this Order shall be construed as an admission by the Consenting Defendants, including but not limited to the Consenting Individual Defendants, to any of the allegations in the Complaint, nor shall in any way preclude the Consenting Defendants from contesting Plaintiff’s claims and allegations or raising any defenses and affirmative defenses to the same.”)

“**September 14, 2021 Order**”), thereby approving and appointing, *inter alia*, Daniel J. Stermer as the Corporate Monitor for the Consenting Corporate Defendants and their affiliates, subsidiaries, successors, and assigns, until further Order of the Court (the “**Corporate Monitor**”). On January 6, 2022, the Court entered an agreed order expanding the scope of the corporate monitorship to include five (5) additional corporate entities as Consenting Corporate Defendants (the “**January 6, 2022 Order**”).

7. The Corporate Monitor and his court-approved professionals, as part of their duties and responsibilities under the September 14, 2021 Order, have made good faith efforts to analyze and continue to analyze the books and records of the Consenting Corporate Defendants.

8. On March 23, 2023, the Corporate Monitor and the OFR filed a *Joint Motion To Appoint Receiver and Stipulation of Settlement* (the “**Joint Motion**”) seeking the appointment of the Corporate Monitor as Receiver to facilitate the wind-down of the Consenting Corporate Defendants affairs, including the liquidation of assets, disposition and prosecution of claims, and to facilitate litigation against third-parties.

9. The Court entered the Receivership Order (the “**Order Appointing Receiver**”) on May 12, 2023, which provides that Daniel J. Stermer shall serve as Receiver (the “**Receiver**”) for the Receivership Entities and their respective affiliates, subsidiaries, successors, and assigns (individually, each a “**Receivership Estate**,” and collectively, the “**Receivership Estates**”).

10. In accordance with Chapters 605 and 607, Florida Statutes, including §605.0704, §605.0709, §607.1405 and §607.1432, and the Order Appointing Receiver, the Receiver is authorized, empowered and directed to investigate, prosecute, defend, intervene in or otherwise participate in, compromise, settle, and/or adjust actions in any state, federal or foreign court or proceeding of any kind, including the action captioned above, as may in, the Receiver’s discretion, be advisable or proper to recover and/or conserve any receivership property.

11. The Receiver and his professionals, has continued to investigate the claims alleged by OFR in its Complaint, including the allegations that in furtherance of the SH Enterprise, SH&S used affiliated/in-house insurance agent-employees who: (i) were not registered with the OFR, to offer and sell the unregistered promissory notes and, thereby, operated as unregistered securities dealers; and (ii) acted as unregistered investment advisers, holding themselves out through advertisements as wealth managers, as “a leader in pre and post-retirement planning,” and as a “comprehensive advisory” and by providing services as to the advisability of investing in the promissory note securities (collectively, the “**Advisors**”).

12. As alleged by the OFR, compensation to Advisors was purposely mischaracterized as insurance client servicing fees in an apparent effort to mislead the OFR and other securities regulators.

13. As alleged by the OFR, Advisors also engaged in sales of promissory notes to certain investors who were not qualified as accredited investors, understanding that some investors did not complete the appropriate questionnaire regarding same.

14. For the benefit of the SH Enterprise, the OFR also alleges that Advisors further facilitated the liquidation of other securities and IRA holdings and investors’ use of self-directed IRAs to purchase the promissory notes.

15. As alleged by the OFR, the promissory note securities which the Advisors touted to investors were not registered with the OFR, were not exempt from registration, nor were they federal covered securities.

16. OFR further alleged that. Advisors also engaged in the offer and sale of additional unregistered securities in the form of stock; namely, by soliciting existing note investors and others to purchase stock in Prime Short Term Credit Inc (“**PSTC**”), which stock shares were not registered with the OFR, exempt from registration or federal covered securities.

17. The Receiver intends to prosecute these claims, along with related claims by filing proceedings against these Advisors who received funds through the SH Enterprise.

18. Additionally, the Receiver intends to prosecute claims against the recipients of improper/fraudulent transfers as part of the SH Enterprise.

19. The Receiver has identified an initial list of 23 targets. These targets received approximately \$17,500,000. Some or all of these funds may be recoverable by the Receivership Estates.⁴

20. The recovery of these sums will require the commencement of lawsuits against the Advisors and the recipients of these transfers (the “**Actions**”).

Relief Requested

21. To efficiently and uniformly administer and resolve the initial Actions and subsequent Actions that are expected to be filed in conjunction with this case, the Receiver proposes that certain procedures (the “**Proposed Procedures**”) be implemented to govern the Actions. Structured procedures further the purpose of the Receivership by providing for the efficient resolution of the Actions. In particular, the Proposed Procedures are designed to promote the cost-effective and timely resolution of the Actions and to further the goals of judicial economy and efficiency. They are intended to promote settlement and streamline litigation of the Actions, with the goal of minimizing the litigation expense to all parties and easing the Court’s administrative burden. They also preserve the rights of all parties to adjudicate claims and defenses before the Court, if necessary.

22. The Receiver respectfully submits that the following Proposed Procedures as follows:

⁴ The Receiver is investigating additional transfers and expects to commence additional actions after further investigation and analysis. Thus, the amounts asserted here do not represent the total universe of potential recoveries and is subject to change based upon further investigation and analysis.

a. **JUDGE ASSIGNMENT.** Upon the filing of an Action, the Receiver shall file with the complaint a copy of the Procedures Order establishing the Procedures in the individual Action. The Clerk of the Court shall direct all cases/Actions subject of the Procedures Order to be assigned to Judge Bradley Harper, Circuit Court Judge. Pursuant to the Order Appointing Receiver:

- i. The Clerk of the Court shall docket a Supplemental Proceeding under this matter's case number, and a separate Supplemental Proceeding number, and shall assign such supplemental proceeding to this Court's division.
- ii. All pleadings and other papers filed in a Supplemental Proceeding shall contain a separate sub-caption and the Supplemental Proceeding number in addition to the caption and the case number applicable to the main case.

b. **MANDATORY MEDIATION REQUIRED.** The parties shall conduct and complete mandatory mediation in good faith within ninety (90) days after each complaint has been served (the "**Mediation Deadline**"), provided, however, that the Receiver may extend the Mediation Deadline for an additional thirty (30) days for good cause. Within thirty (30) days of entry of the Proposed Procedure Order, the Receiver shall identify a mediator that will serve as the default mediator for all of the Actions. The costs to the parties are lessened when multiple proceedings are mediated by the same mediator, who will become familiar with the facts and circumstances of the SH Enterprise, resulting in cost efficiencies which will benefit all parties to the Actions. In the event a party objects to the selected Mediator, and the Receiver and the objecting party are unable to come to an agreement on an alternate mediator, the parties shall notify the Court, which will then appoint a mediator for that particular Action. Mandatory mediation will provide an opportunity for each defendant to resolve its Action without expensive, time consuming, and burdensome litigation, particularly discovery. The mediator will have full authority to implement individual procedures over and control the mediations. The mediator's fees

shall be split equally between the parties. The mediations will take place in Florida (or via Zoom or other electronic method) and a representative of the Receiver and defendant with settlement authority will be required to attend the mediation in person.

c. **COMPROMISE OF CONTROVERSIES SHALL REQUIRE COURT APPROVAL.** Compromises and settlements reached in the Actions shall be brought before the Court for approval.

d. **RESPONSE DEADLINE EXTENDED UNTIL AFTER MEDIATION.** The deadline for defendants to answer or otherwise respond to the complaint shall be extended to the first business day that is the earlier of: (i) thirty (30) days from the date that the mediator files a notice declaring an impasse, or (ii) one hundred and twenty (120) days from the date that the summons is issued (the “**Response Deadline**”).

e. **FORMAL DISCOVERY STAYED UNTIL AFTER MEDIATION.** Formal discovery in the Actions shall be stayed until the Response Deadline. On or after the Response Deadline, the parties may proceed with formal discovery, except for depositions of key witnesses who the Receiver believes have information relevant to more than one Action (“**Key Witnesses**”). The Receiver will file a list of Key Witnesses within thirty (30) days of an order approving this Motion. The list of Key Witnesses can be modified from time to time by the Receiver, at his sole discretion, by filing an amended list with the Court. Any party that wishes to take the deposition of a Key Witness must attend the scheduled deposition of such Key Witness. The Receiver shall be responsible for coordinating the depositions of Key Witnesses. The parties shall use reasonable efforts to coordinate among themselves the order of inquirer and scope of inquiries of Key Witnesses so that the questioning is not repetitive or redundant. The discovery cutoff deadline shall be 30 days from the date the Court sets the Proceeding for trial. Except for

the foregoing, the Florida Rules of Civil Procedure will remain in full force and effect with respect to depositions.

f. **PRETRIAL CONFERENCES ELIMINATED IN FAVOR OF OMNIBUS HEARINGS.** The Court will not conduct individual pretrial conferences. Instead, the Receiver will schedule separate omnibus hearings for various Actions to be heard in the same hearing. Initially, the omnibus hearings will be scheduled on a quarterly basis at the Court's convenience. If it becomes necessary or advisable, the Receiver may request that omnibus hearings be scheduled on a monthly basis or bi-monthly basis. All motions and other matters concerning the Actions will only be heard at the omnibus hearings. If it becomes necessary for individual pre-trial conferences, the Court may entertain such requests.

g. **TRIAL AND PRETRIAL OBLIGATIONS.**

i. **Notice for Trial.** After each of the Actions are at issue and ready to be set for trial, the Receiver shall file a notice of readiness for trial, identifying the Actions that are at issue and ready to be set for trial and identifying the common issues that may be tried together.

ii. **Final Omnibus Hearing; Setting Trial.** The Court will then set a final omnibus hearing (the "**Final Omnibus Hearing**"), at which time the Court will set the Actions for each round for trial and may enter a trial order with additional obligations for the parties, including with respect to exhibits and sworn declarations. All such deadlines required under the Florida Rules of Civil Procedure will be scheduled after the Final Omnibus Hearing pursuant to an order.

23. This Procedures Motion is being filed prior to the commencement of any of the Actions, and as a result, the Receiver is not serving it upon potential defendants. The Receiver

proposes: (a) to post this Motion on the Receiver's website for viewing by any individual interested in reviewing same⁵; (b) to serve a copy of the applicable Procedures Order with the complaint and initial summons in each Proceeding and (c) to have each of the Proposed Procedures Orders provide: (i) that any defendant shall have fourteen (14) days from date the complaint and summons is served to file and serve on the Receiver an objection to the Procedures Order, specifically identifying which portions of the Procedures Order is objectionable and why, and (ii) that the Court specially set an omnibus hearing for each round of Actions objections that are filed within 28 days after the filing of the last complaint. The Receiver, based upon the status of his investigations and the number of Actions filed may file such proceedings in separate tranches, each to be considered a separate round. The Receiver shall file a notice with the Court after the final complaint is filed for each round.

Basis for Requested Relief

24. The Court has broad discretion to adopt and implement guidelines, such as the Proposed Procedures, to aid in the administration of the Actions. Specifically, Fla. R. Civ. P. 1.200 Pretrial Procedure authorizes the Court to set an order: 1) scheduling and rescheduling the service of motions, pleadings, and other papers; 2) set or reset the time of trials, subject to rule 1.440(c); 3) coordinate the progress of the action if complex litigation factors are present; 4) limit, schedule, order, or expedite discovery; 5) schedule disclosure of expert witnesses and the discovery of facts known and opinions held by such experts; 6) schedule or hear motions *in limine*; 7) pursue the possibilities of settlement; 8) require filing of preliminary stipulations if issues can be narrowed; 9) consider referring issues to a magistrate for findings of fact; and 10) schedule other conferences or determine other matters that may aid in the disposition of the action. See Fla. R. Civ. P. 1.200(a).

⁵ The Receiver has and will continue to post all filings on the Receiver's website under Court Documents: <https://nationalseniormonitorship.com/documents/>

25. Fla. R. Civ. P. 1.270 provides when actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary cost or delay. See Fla. R. Civ. P. 1.270.

26. Further, Fla. R. Civ. P. 1.700 provides that a presiding judge may enter an order referring all or any part of a contested civil matter to mediation. The order may provide for mediation 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. See Fla. R. Civ. P. 1.700.

27. The Proposed Procedures further the purpose of the applicable Florida Rules of Civil Procedures by establishing certain guidelines that the Receiver believes are important to the efficient and successful administration and resolution of the Actions. The Receiver submits that the implementation of the Proposed Procedures will further the cost-effective, timely resolution of the Proceeding, benefit the parties to the Actions, and further the goals of judicial economy and conservation of judicial resources. The Receiver also hopes and expects that the Proposed Procedures will promote settlements and reduce defense costs. The defendants in the Actions will also be able to present their defenses to the Receiver for evaluation before engaging in costly and protracted litigation. The Receiver asserts that the Proposed Procedures will result in more orderly and efficient litigation and discourage dilatory tactics.

28. For the foregoing reasons, the Receiver respectfully requests that the Court enter the Proposed Procedures Orders.

WHEREFORE, the Receiver respectfully requests that the Court grant this Procedures Motion and enter the Proposed Procedures Order (in the form proposed as **Exhibit A**) to implement

the Proposed Procedures, and for such other relief as the Court deems just and proper.

Dated: August 22, 2023

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By: /s/ Brian G Rich

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on August 22, 2023, the foregoing was filed using the Florida Court's E-Filing Portal, which served a copy of the foregoing electronically upon all electronic service parties. I further certify that a true and correct copy of the foregoing was served by electronic transmission and first class, U.S. Mail upon all parties on the attached Service List.

By: /s/ *Brian G. Rich*
Brian G. Rich

SERVICE LIST

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EXHIBIT A
(Proposed Procedures Order)

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CIVIL DIVISION

STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION,

Plaintiff,

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PRIME SHORT TERM CREDIT INC.,

Defendants.

THE ESTATE OF ERIC CHARLES HOLTZ,
SEEMAN HOLTZ PROPERTY AND CASUALTY, LLC
F/K/A SEEMAN HOLTZ PROPERTY AND CASUALTY, INC.,
SHPC HOLDINGS I, LLC,

Relief Defendants.

**ORDER ESTABLISHING PROCEDURES GOVERNING RECOVERY ACTIONS TO
BE COMMENCED BY THE RECEIVER**

THIS CASE having come before the Court on _____, 2023, upon the *Receivers' Motion for Orders Establishing Procedures and Scheduling Order Governing Recovery Actions to be Commenced by the Receiver* (the "**Procedures Motion**"), filed by Daniel J. Stermer (the "**Receiver**"), by and through counsel, and pursuant to Fla. Civ. P. § 1.200 and §1.700, seeking the entry of procedures governing recovery actions to be filed by the Receiver; and this Court having jurisdiction to consider and determine the Procedures Motion and determining that the Procedures Motion is necessary and in the best interests of the Receivership Estates; and good cause existing;

It is ORDERED:

1. The Procedures Motion is **GRANTED** as set forth in this Order.
2. The procedures that govern all Actions filed by the Receiver (the "**Actions**") are as follows.

A. Effectiveness of Order

3. This Order shall apply to all parties in the Actions.
4. This Order shall not alter, affect, impair or modify the rights of any such defendants,

except as provided in this Order.

B. Judge Assignment. Upon the filing of an Action, the Receiver shall file with the complaint a copy of the Procedures Order establishing the Procedures in this Case. The clerk of court shall direct all matters subject to the Procedures Order to be assigned to Judge Bradley Harper, Circuit Court Judge. Pursuant to the Order Appointing Receiver:

- i. The Clerk of the Court shall docket a Supplemental Proceeding under this matter's case number, and a separate Supplemental Proceeding number, and shall assign such supplemental proceeding to this Court's division.
- ii. All pleadings and other papers filed in a Supplemental Proceeding shall contain a separate sub-caption and the Supplemental Proceeding number in addition to the caption and the case number applicable to the main case.

C. Mandatory Mediation

5. The parties to each of the Actions shall conduct and complete mandatory mediation within 90 days after each complaint is filed (the "**Mediation Deadline**"), provided, however, that the Receiver may, in his sole discretion, extend the Mediation Deadline without further Order of the Court for an additional thirty (30) days (so that extended mediations must be completed within one hundred and twenty (120) days after the filing of a complaint).

6. Within thirty (30) days of entry of this Order, the Receiver shall identify a mediator that will serve as the default mediator for all of the Actions (the "**Mediator**"). If the Mediator has a scheduling conflict or if the Mediator has a conflict with respect to a particular defendant, then the Receiver shall, in his sole discretion, select another mediator to mediate such Proceeding. In the event a party objects to the Mediator or any other mediator selected by the Receiver, and are unable to come to an agreement on an alternate mediator, the parties shall notify the Court, which will ultimately decide the mediator for that particular Proceeding.

7. On or before the Mediation Deadline, the Receiver, working with the mediator, will schedule mediations in Florida (or via Zoom or other electronic method). The defendants shall

cooperate with the Receiver and the mediator regarding the scheduling of mediations. The Receiver's counsel shall contact the defendants with a list of proposed dates for mediation. Mediation will then be scheduled on a first-come, first-served basis.

8. The mediator may request the parties submit position statements, any relevant papers and exhibits, and a settlement proposal in advance of the scheduled mediation.

9. The fees of the mediator shall be split equally by the parties, and payment arrangements satisfactory to the mediator must be completed prior to the commencement of the mediation.

10. The mediator will preside over the mediation with full authority to determine the nature and order of the parties' presentations. The mediator may implement additional procedures that are reasonable and practical under the circumstances.

11. The length of time necessary to effectively complete the mediation will be within the mediator's discretion. The mediator may also adjourn a mediation that has been commenced if the mediator determines that an adjournment is in the best interest of the parties, provided that the mediation is concluded by the Mediation Deadline.

12. The parties shall participate in the mediation, as scheduled and presided over by the mediator, in good faith and with a view toward reaching a consensual resolution. An authorized representative of the plaintiff and defendant with full settlement authority shall attend the mediation in person; provided, however, that the mediator, in her or his sole discretion, may allow such representative to appear telephonically, although the party's legal counsel is required to attend in person.

13. If a party (a) fails to submit the submissions required by the mediator, (b) fails to timely pay any bill for the mediator's fees, or (c) fails to attend the mediation as required, then the non-defaulting party may file a motion for default judgment or a motion to dismiss the Proceeding,

and in the case of a defendant's failure to pay the mediator's fees, the Receiver may withhold disbursement on account of any allowed claim filed the defendant.

14. In addition, if the mediator feels that a party to the mediation is not attempting to schedule or resolve the mediation in good faith, the mediator may file a report with the Court. The Court may, without need for further motion by any party, schedule a hearing. If the Court determines that the party is not cooperating in good faith with the mediation procedures, the Court may consider the imposition of sanctions including, but not limited to, entry of a default judgment or dismissal of the Proceeding. Additionally, if either party to the mediation is not attempting to schedule or resolve the mediation in good faith, then the opposite party may file a motion for sanctions with the Court including, but not limited to, entry of a default judgment or dismissal of the Proceeding. Litigation with respect to the issuance of sanctions shall not delay the commencement of mediation.

15. Within five (5) business days after the conclusion of the mediation, the mediator will file a report (the "**Mediator's Report**"), drafted with the caption of the Proceeding, which need only state (i) the date that the mediation took place, (ii) the names of the parties and counsel that appeared at the mediation, and (iii) whether the Proceeding settled or the mediator declared an impasse (the "**Impasse Notice**").

16. The mediator shall not be called as a witness by any party except as set forth in this paragraph. No party shall attempt to compel the testimony of, or compel the production of documents from, the mediators or the agents, partners, or employees of the mediator's law firm(s). Neither the mediators nor their respective agents, partners, law firms, or employees (i) are necessary parties in any proceeding relating to the mediation or the subject matter of the mediation, nor (b) shall be liable to any party for any act or omission in connection with any mediation conducted under this Order. Any documents provided to the mediator(s) by the parties shall be

destroyed 30 days after the filing of the Mediator's Report, unless the Mediator is otherwise ordered by the Court. However, subject to court order, a mediator may be called as a witness by any party and may be compelled to testify on a limited basis in proceedings where it is alleged that a party failed to comply with the mediation procedures set forth in this Order.

17. All proceedings and writings incident to the mediation shall be privileged and confidential, and shall not be reported or placed into evidence.

D. Compromises

18. Compromises and settlements reached in the Actions shall be brought before the Court for approval.

E. Extension of Deadline to Answer or Otherwise Respond to Complaint

19. The deadline for a defendant to file an answer or otherwise respond to the complaint shall be extended to the first business day that is the earlier of: (i) thirty (30) days from the date that the mediator files an Impasse Notice, or (ii) one hundred and twenty (120) days from the date that the summons is issued (the "**Response Deadline**").

F. Formal Discovery Stayed Until After Mediation

20. Formal discovery in the Actions are stayed until the Response Deadline. On or after the Response Deadline, the parties may proceed with formal discovery, except for depositions of key witnesses who the Receiver believes have information relevant to more than one Proceeding ("**Key Witnesses**"). The Receiver will file a list of Key Witnesses within thirty (30) days of an order approving this Motion. The list of Key Witnesses can be modified from time to time by the Receiver, at his sole discretion, by filing an amended list with the Court. Any party that wishes to take the deposition of a Key Witness must attend the scheduled deposition of such Key Witness. The Receiver shall be responsible for coordinating the depositions of Key Witnesses. The parties shall use reasonable efforts to coordinate among themselves the order of inquirer and scope of

inquiries of Key Witnesses so that the questioning is not repetitive or redundant. The discovery cutoff deadline shall be 30 days from the date the Court sets the Proceeding for trial. Except for the foregoing, the Florida Rules of Civil Procedure will remain in full force and effect with respect to depositions.

G. Pretrial Conferences Eliminated in Favor of Omnibus Hearings

21. The Court will not conduct individual pretrial conferences in each separate Action. Instead, the Receiver will schedule separate omnibus hearings. Initially, the omnibus hearings will be scheduled on a quarterly basis at the Court's convenience. If it becomes necessary or advisable, the Receiver may request that omnibus hearings be scheduled on a monthly basis or bi-monthly basis. All motions and other matters concerning the Actions will only be heard at the omnibus hearings.

TRIAL AND PRETRIAL OBLIGATIONS

H. Notice for Trial

22. After each of the Actions are at issue and ready to be set for trial, the Receiver shall file a notice of readiness for trial, identifying the Actions that are at issue and ready to be set for trial and identifying the common issues that may be tried together.

I. Final Omnibus Hearing; Setting Trial

23. The Court will then set a final omnibus hearing (the "**Final Omnibus Hearing**"), at which time the Court will set the Actions for each round for trial and may enter a trial order with additional obligations for the parties, including with respect to exhibits and sworn declarations. All such deadlines required under the Florida Rules of Civil Procedure will be scheduled after the Final Omnibus Hearing pursuant to an order.

J. Special Settings

24. If the attorney(s) trying an Action are from outside this district, or the parties or

witnesses are from outside this district, or if some other reason that justifies a request to the court to specially set trial at a time or date certain, counsel shall request appropriate relief at the Final Omnibus Hearing.

K. Miscellaneous

25. To the extent of a conflict between the Court's local rules and this Order, this Order shall control.

26. The deadlines and/or provisions contained in this Order may be extended and/or modified by the Court upon written motion and for good cause shown or by consent of the parties pursuant to stipulation, which needs to be filed with the Court but does not require a Court order.

L. Notice of Right to Object to this Order

27. The Receiver shall serve a copy of the applicable Procedures Order with the complaint and initial summons in each Action.

28. Each defendant shall have 14 days from date a complaint and summons is served to file and serve on the Receiver an objection to the Procedures Order, which shall state which specific provision of the Procedures Order defendant objects to and why.

29. The Court reserves the ability to modify the terms of the Procedures Order as necessary.

DONE AND ORDERED in Chambers at West Palm Beach, Florida this _____ day of _____, 2023.

BRADLEY HARPER
CIRCUIT COURT JUDGE

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