

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

CASE NO. 16-CA-009191; DIV B
UCN: 292016CA009191A001HC

TRACI HARRELL, an individual,

Plaintiff(s),

vs.

SUNISHKUMAR PATEL, an individual,
JINESHKUMAR PATEL, an individual, and
PROGRESSIVE SELECT INSURANCE
COMPANY, a corporation,

Defendant(s).

**ORDER GRANTING DEFENDANT PROGRESSIVE SELECT INSURANCE
COMPANY'S SUPPLEMENTAL MOTION FOR TRIAL DE NOVO**

THIS CAUSE, having come on to be heard before this Honorable Court, on Tuesday, June 4, 2019, upon the Defendant, PROGRESSIVE SELECT INSURANCE COMPANY's Supplemental Motion for Trial De Novo and Objection to Entry of Judgment, and the Court having heard argument of counsel, having received the testimony of Terryl B. Walker and Cecelia A. Williams, and being otherwise fully advised in the premises, finds that the uncontroverted facts of this case are as follows:

1. The Order on Plaintiff's Motion to Compel Expert Testimony which, in Paragraph 3, orders this case into non-binding arbitration, entered by the Court on August 16, 2018, and the Notice of Non-Binding Arbitration filed by Plaintiff, on August 22, 2018, do not comply with Fla. R. Civ. P. 1.820(2), which requires that the "hearing procedures shall be included in the notice of arbitration hearing sent to the parties and arbitration panel."
2. The arbitrator rendered his decision on November 6, 2018.

3. A review of the court file reflects that the arbitration decision was forwarded to the parties by U.S. Mail.
4. Paragraph 6 of Hillsborough County Adm. Order S-2018-040 provides that, “Within 10 days of the final adjournment of the arbitration hearing, the arbitrators must notify the parties or their counsel, of the arbitrator’s decision by service in accordance with Fla. R. Jud. Adm. 2.516.”
5. Florida Rule of Judicial Administration 2.516(b)(1) provides that when a party is represented by an attorney, service must be made upon that attorney, which service must be by email “unless the parties otherwise stipulate or this rule otherwise provides” or “upon motion by an attorney demonstrating that the attorney has no email account or lacks access to the internet at the attorney’s office.” The Court finds that the parties did not stipulate to service by U.S. Mail nor did the attorney for PROGRESSIVE SELECT INSURANCE COMPANY move the Court to excuse the attorney from the requirements of email service.
6. Cecelia A. Williams testified credibly that she did not receive any notice of the arbitration decision until she received an email from the arbitrator on November 17, 2018.
7. Although PROGRESSIVE SELECT INSURANCE COMPANY, as the client, received notice by U.S. Mail on November 12, 2018, that service is not binding on Cecelia A. Williams, as counsel for PROGRESSIVE.SELECT INSURANCE COMPANY who is entitled to service under Florida Rule of Judicial Administration 2.516(b)(1).
8. Since Cecelia A. Williams, as counsel for PROGRESSIVE.SELECT INSURANCE COMPANY did not receive proper service of the arbitration decision until she received an email from the arbitrator on November 17, 2018, she is, accordingly, entitled to the benefit of the doubt regarding the date of service and, therefore, PROGRESSIVE SELECT

INSURANCE COMPANY should not be penalized because it had, on November 12, 2018, received improper service of the arbitration decision by U.S. Mail.

9. As a result of this Court determines that the Motion for Trial De Novo filed by Defendant, PROGRESSIVE SELECT INSURANCE COMPANY on December 7, 2018 was timely filed.

10. This Court, therefore, need not determine whether PROGRESSIVE SELECT INSURANCE COMPANY is entitled to relief under Fla. R. Civ. P. 1.540, based upon its allegation of “excusable neglect.”

Accordingly, it is

ORDERED AND ADJUDGED that Defendant, PROGRESSIVE SELECT INSURANCE COMPANY’S Supplemental Motion for Trial de Novo is GRANTED.

DONE AND ORDERED in Chambers, at Tampa, Hillsborough County, Florida on this _____ day of _____, 2019.

Electronically Conformed 6/6/2019

Ralph Stoddard
Ralph C. Stoddard
CIRCUIT COURT JUDGE

Copies furnished to parties on the attached Service List:

SERVICE LIST

Traci Harrell v. Progressive Select Insurance Company, et al
Case No. 16-CA-009191; DIV B

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