

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

EDNA DUDLEY and ALTON
DUDLEY,

Plaintiffs,

v.

Case No.: 2:24-cv-574-SPC-KCD

AMERICAN ZURICH
INSURANCE COMPANY,

Defendant.

_____ /

ORDER

This is an insurance dispute stemming from Hurricane Ian. The parties now agree that their dispute should go to appraisal. (Docs. 18, 20.)

When an insurance policy contains an appraisal provision, “the right to appraisal is not permissive but is instead mandatory, so once a demand for appraisal is made, ‘neither party has the right to deny that demand.’” *McGowan v. First Acceptance Ins. Co., Inc.*, 411 F. Supp. 3d 1293, 1296 (M.D. Fla. 2019) (quoting *United Cmty. Ins. Co. v. Lewis*, 642 So. 2d 59, 60 (Fla. 3d DCA 1994)). And like other stipulations about dispute resolution, the Court enforces contractual appraisal provisions by non-dispositive order. *See Positano Place at Naples II Condo. Ass’n, Inc. v. Empire Indem. Ins. Co.*, No. 2:21-cv-181-SPC-MRM, 2022 WL 714809, *2 (M.D. Fla. Mar. 10, 2022).

The parties agree that appraisal is appropriate, so their request will be granted. Further, Plaintiff seeks a stay. The Hurricane Ian Scheduling Order contemplates such relief during appraisal. (Doc. 9 at 2.) Thus, the case will be stayed. All deadlines and events in the Hurricane Ian Scheduling Order (Doc. 13) are suspended. The parties have agreed that the Court reserve jurisdiction following the appraisal award to determine Plaintiff's entitlement to fees and costs. (Doc. 18 at 4.) Plaintiff can raise the issue of fees and costs following the appraisal award. Finally, the parties have agreed that the appraisal award will be itemized. (Doc. 18 at 4.) Because the parties agree, this request will be granted too.

According, it is hereby **ORDERED**:

1. Plaintiffs' Motion to Compel Appraisal and Stay Proceedings (Doc. 18) is **GRANTED**.
2. This case is **STAYED** pending appraisal, and the Clerk must add a stay flag to the file and **ADMINISTRATIVELY CLOSE THE CASE**.
3. The parties are **DIRECTED** to file a joint report on the status of appraisal on or before **October 16, 2024**, and every ninety days thereafter until appraisal has ended.
4. Within 15 days of a signed appraisal award, the parties are **DIRECTED** to jointly notify the Court of (a) what issues, if any, remain for

the Court to resolve; (b) whether the stay needs to be lifted; and (c) how this action should move forward.

ORDERED in Fort Myers, Florida this July 18, 2024.



Kyle C. Dudek
United States Magistrate Judge

Copies: All Parties of Record