THE SECOND CIRCUIT COURT, LEON COUNTY, FLORIDA

Elmber O. Lombana, Plaintiff,
v.
Citizens Property Insurance Corp., Defendant;
And

Citizens Prop. Insur. Corp., Counter-Plaintiff, Case: 2025CA001675
v.
Elmber O. Lombana, Counter-Defendant,
And

Citizens Prop. Insur. Corp., Petitioiner
v.
Division of Administrative Hearings, Respondent./

Order Granting Petition for Writ of Mandamus

This matter is before the court on a third-party petition for writ of mandamus, motion to dismiss and third-party response.

The parties to this series of disputes are:

Plaintiff Elmer O. Lombana ("Plaintiff" or "Lombana");

Defendant/Petitioner Citizens Property Insurance Corporation ("Petitioner" or "Citizens");

Respondent The Florida Division of Administrative Hearings ("Respondent" or "DOAH").

The immediate matters before this court are:

Citizens' "Petition for Writ of Mandamus" filed October 14, 2025.

This court's "Order to Show Cause" issued October 21, 2025.

Lombana's "Motion to Dismiss Petition for Writ of Mandamus" filed October 23, 2025.

DOAH's "Response to Petition for Writ of Mandamus" filed October 28, 2025.

This court's "Order Allowing Memorandum Response by Plaintiff" filed November 2, 2025.

Citizens' "Response in Opposition to Plaintiff's Motion to Dismiss" filed November 7 2025.

"Plaintiff's Response to Petition for Writ of Mandamus" filed November 7, 2025.

Introduction

This case commenced by the filing of the initial complaint on July 16, 2025 that alleged plaintiff Lombana suffered a loss covered by insurance issued by defendant Citizens Property. The Complaint did not seek to adjudicate Plaintiff Lombana's insurance loss. The complaint sought as a remedy only a declaratory judgment finding that a statute authorizing "DOAH Arbitration" of Citizens' claims disputes violates Article I, Section 21 of the Florida Constitution (Access to Courts) and "due process rights of the Defendant."

Meanwhile, Plaintiff Lombana's attorney was proceeding, on behalf of another client and in another Circuit Court, with a constitutional challenge to the DOAH Arbitration clauses now included in Citizens' insurance policies. That case resulted in an emergency injunction forbidding DOAH Arbitration. See, Alvarez v. Citizens Prop. Ins. Corp., 2025-CA-006626 Order Granting Plaintiff's Emergency Petition for Temporary Injunction, (Fla. 13th Circuit, Aug. 1, 2025).

The court in Alvarez also denied a motion to transfer venue to this court (order of August 21, 2025) and granted a motion to vacate the automatic stay pending appeal (order of August 21, 2025).

Citizens Property then filed in this case its third-party Petition for Writ of Mandamus on October 14, 2025 against third-party respondent DOAH on October 14, 2025 without impleading Plaintiff Lombana, although Citizens Property served Plaintiff with the petition. The purpose of this petition is to require DOAH to recommence arbitration of disputes under Citizens Property's insurance policies.

This court issued an order to show cause on October 21, 2025 to "Third-Party Respondent" DOAH without acknowledging the existence of Plaintiff Lombana. DOAH responded on October 28, 2025 vigorously agreeing to mandamus relief. In the meantime, on October 23, 2025, Plaintiff Lombana moved to dismiss the petition for writ of mandamus.

Because this court received correspondence suggesting controversy about Plaintiff Lombana's right to be heard on the mandamus petition, the court issued an order on November 2, 2025 permitting Plaintiff Lombana to respond in writing by November 7, 2025. The court informed the parties that it intended to resolve the mandamus petition on the papers and invited the parties to inform the court of any objection to dispensing with hearing or oral argument. The court received no objection and is adequately advised.

Legal Analysis

The writ must be granted.

The injunction issued in Alvarez is quite broad. It states that Citizens "is further enjoined from enforcing the same or any substantially similar arbitration clause against any other current or future Citizens policyholder in the State of Florida pending resolution of this action;" and that "All pending actions currently before the Division of Arbitration [sic] Hearings are hereby stayed pending the resolution of the constitutional questions relating to . . . the arbitration clauses contained in the current Citizens' policies statewide."

The operative statute, 2023-175, section 3, Laws of Florida mandates that "in addition to any other method of alternative dispute resolution authorized by state law" Citizens is permitted to adopt policy forms to resolve "claim determinations, including disputes regarding coverage for, or the scope and value of a claim" in "a proceeding" before DOAH.

The only direct mention of arbitration in the statute is to exclude DOAH Arbitration proceedings from the statutory prerequisites for arbitration of section 627.70154 that apply to private property insurers.

After the statute became effective, Citizens included DOAH Arbitratioin clauses in its policies – including Plaintiff Lombana's policy -- to permit either party to demand arbitration through the Division of Administrative

Hearings "pursuant to the Revised Florida Arbitration Code." This is the "DOAH Arbitration" that is the essence of this dispute.

As a result of the Alvarez injunction, DOAH ceased providing arbitration services including cancelling the arbitration previously scheduled in this case.

Citizens' insurance policy arbitration provisions are explicitly authorized by statute as is DOAH's responsibility to conduct arbitrations. Arbitration is favored, not disfavored, by Florida law and the Florida Arbitration Code provides for substantial procedural protections for all parties participating in arbitrations. Fla. Stat. Ch. 682. The Florida Arbitration Code provides for appellate review of arbitration decisions to the same extent as final judgments. Fla. Stat. § 682.20.

The creation of Citizens and its purpose suggest the legislative branch acting to the very limits of authority by creating a direct government participant in a private market made necessary to address a monumental public interest to preserve the foundations of Florida's economy.

> The Legislature finds that private insurers are unwilling or unable to provide affordable property insurance coverage in this state to the extent sought and needed. The absence of affordable property insurance threatens the public health, safety, and welfare and likewise threatens the economic health of the state. The state therefore has a compelling public interest and a public purpose to assist in assuring that property in the state is insured and that it is insured at affordable rates. . . .

Fla. Stat. § 627.351(6)(1).

It seems unnecessary to recite the authorities suggesting deference to the legislative policy-making role in these circumstances. Indeed, the reason property owners have access to policies through Citizens is because of the legislature's determination that otherwise, no coverage would be available at all. These circumstances do not suggest that the purchase of a Citizens policy is involuntary or coerced, at least not by Citizens or by the government generally. Plaintiff Lombana accepted the arbitration clause by accepting the policy issued pursuant to statute.

Plaintiff Lombana's argument that this court should defer to the Alvarez injunction is unavailing. Alvarez was not a class-action and there is no suggestion in this record that Lombana or Lombana's insurance policy was in issue in Alvarez, nor was DOAH impleaded in that case to address its statutory mandate. This court is not bound by the non-final orders of other trial courts addressing other insurance claims of different policy holders.

The authority quoted by Plaintiff Lombana for this argument is Schindler v. Schiavo, 792 So.2d 551 (Fla. 2d DCA 2001). It is difficult to hypothesize a dispute that is less analogous. The Schiavo opinion protected a final guardianship order. In Schiavo, there was only one personal interest directly at stake, that of the ward. This court's writ will not affect the plaintiff in Alvarez in any way, unlike the temporary, emergency injunction that contradicted the guardianship final order as to the same ward in Schiavo.

Nor will this court's writ interfere with the appellate process in Alvarez. Pardo v. State, 596 So.2d 665 (Fla. 1992) makes clear that our appellate process anticipates interdistrict conflict, should any arise. The principles governing this court's consideration of the Alvarez injunction are established by Pardo, not Schiavo.

As regards Plaintiff Lombano's argument that this writ "would invite procedural chaos," the record is not supportive. The Alvarez injunction has existed for less than 90 days. That DOAH is now uncertain of its responsibility to follow its statutory mandate to conduct arbitrations for unrelated policy holders is the uncertainty this writ attempts to relieve while the underlying issue raised by Plaintiff Lombano is finally resolved between Defendant Citizens and Plaintiff Lombana in this case or by the issuance of binding authority by the appellate courts.

Plaintiff Lombana's motion to dismiss the petition for writ of mandamus must be and hereby is DENIED.

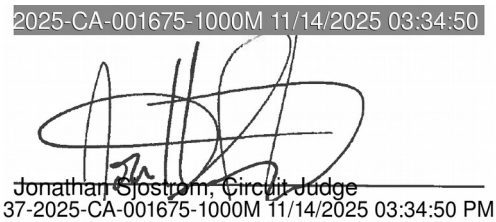
For all these reasons I conclude that the record establishes that Citizens has demonstrated a clear legal right to rely on section 2023-175, section 3, Laws of Florida, DOAH is subject to a ministerial, non-discretionary duty to administer arbitrations under the statute, and Citizens has no adequate remedy at law.

Conclusion

Citizens' Petition for writ of mandamus is hereby GRANTED. DOAH shall promptly resume administering proceedings as required by section 2023-175, section 3, Laws of Florida except as pertains to the plaintiff in Alvarez v. Citizens Prop. Ins. Corp., 2025-CA-006626 (Fla. 13th Circuit, Aug. 1, 2025).

The court will set a case management conference by separate notice to establish the process to resolve all remaining issues.

IT IS SO ORDERED in chambers at Tallahassee, Leon County, Florida on Friday, November 14, 2025.



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