

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

MARTIN A ALVAREZ  
Plaintiff(s),

vs.

CITIZENS PROPERTY INSURANCE  
CORPORATION,  
Defendant.

Case No. 25-CA-006626

Division C

**ORDER DENYING PLAINTIFF'S AMENDED**  
**MOTION TO STRIKE DEFENDANT'S NOTICE OF APPEAL**  
**AND**  
**GRANTING MOTION TO VACATE AUTOMATIC STAY**

THIS MATTER came before the Court for hearing on August 19, 2025, on Plaintiff's Amended Motion to Strike Defendant's Notice of Appeal or, in the Alternative, Motion to Vacate Automatic Stay filed August 7, 2025 [DIN 27] ("Motion"). The Court having reviewed and considered the Motion, Defendant's Response to Amended Motion to Strike Notice of Appeal filed August 14, 2025 [DIN 38], and Defendant's Response to Amended Motion to Vacate Automatic Stay filed August 14, 2025 [DIN 39], the record, applicable legal authority, having heard arguments from counsel and otherwise being fully advised in the premises, makes the following findings:

1. Plaintiff's declaratory action seeks to invalidate the statute that permits Defendant, Citizens Property Insurance Corporation ("Defendant"), to insert a clause or endorsement in their policy that can require any disputes regarding coverage to be referred to the Division of Administrative Hearings ("DOAH").

2. On August 1, 2025, this Court entered its “Order Granting Plaintiff’s Emergency Petition for Temporary Injunction” (DIN 18 “Injunction Order”) which enjoined the Defendant from participation and use of the unconstitutional DOAH process.
3. On August 3, 2025, Defendant filed its “Notice of Appeal of a Non-Final Order and Automatic Stay Pending Appeal of Non-Final Order” (DIN 23) that resulted in an automatic stay of the Injunction Order.
4. This Court has the express authority pursuant to Fla. R. App. P. 9.310(b)(2) to determine whether to lift the automatic stay imposed by the same rule.
5. Florida law recognizes that temporary injunctions and automatic stays are inseparable. A temporary injunction cannot be issued without a showing of irreparable harm. *See Planned Parenthood of SW & Cent. Fla.*, 342 So. 3d 863, 867 (Fla. 1<sup>st</sup> DCA 2022). The evidence and findings supporting the Temporary Injunction Order remain fully applicable here.
6. Defendant received notice of the first hearing on the injunction, which, in an abundance of caution the Court continued since the Defendant failed to appear, and also of the continued hearing, yet Defendant still did not appear. Plaintiff presented verified evidence at that hearing establishing disparate treatment of Citizens policyholders. Plaintiff and similarly situated policyholders of Citizens homeowners property insurance are treated differently than other private policyholders, in that they are not provided the protections of Fla. Stat. §627.70154 regarding the binding arbitration endorsement. The selective and disparate treatment of certain policyholders over others is inherently a violation of due process.

7. Prior to the enactment of Fla. Stat. §627.351(6)(II), Citizens' policyholders, like all other Floridians, possessed the fundamental right to jury trial, access to courts and due process on their breach of contract claims. The clause in Defendant's insurance policies compelling disputes into DOAH functions as an adhesion contract, offering neither a fair alternative nor a reduction in premiums. This compulsory and unequal treatment offends the very core of constitutional protections, stripping policyholders of due process and access to courts, rendering the statutory scheme unconstitutional on its face and in application.
8. Irreparable harm is unmistakable and severe. Plaintiff has made a preliminary showing that the DOAH forum is structurally biased and deprives policyholders of neutral discovery, motion practice, and judicial review. The record shows that DOAH repeatedly awards fees and/or costs to Defendant, while denying the same relief to the insureds. The endorsement itself does not provide a way to challenge the validity of any proposals for settlement served prior to a hearing on the amounts. Defendant argues that this particular plaintiff is not subject to payment of attorney's fees because they did not file a proposal for settlement, but the DOAH judges routinely award costs to Defendant in cases where the Defendant does not file proposals for settlement under the Florida Administrative Code. The result is that ordinary citizens, compelled by adhesion contract, are stripped of their constitutional rights and left powerless in a tribunal that appears to favor the State's insurer.
9. The balance of equities at this point favors Plaintiff, as the harm to constitutional rights outweighs any administrative or operational burden to Defendant. Significantly, lifting the stay imposes no tangible harm on Defendant because any actions temporarily

enjoined can be resumed if the matter is determined in Defendant's favor, but failing to lift the stay risks depriving policyholders of constitutional protections.

10. The public interest, representing all Floridians, requires unfettered access to the judiciary.

THEREFORE, it is **ORDERED** and **ADJUDGED**:

1. The Motion to Vacate Automatic Stay (DIN 27) is **GRANTED**; the Motion to Strike Notice of Appeal is **DENIED**. *G.W. v. Rushing*, 22 So. 3d 819, 821 (Fla. 2d DCA 2009).
2. The automatic stay invoked by the appeal is hereby lifted.
3. The Injunction Order remains in effect while the appeal continues.

DONE and ORDERED in Chambers in Hillsborough County, Florida this \_\_\_ day of August, 2025.

Electronically Conformed 8/21/2025  
Melissa Polo

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**MELISSA POLO- CIRCUIT COURT JUDGE**

*ELECTRONIC COPIES PROVIDED TO ALL COUNSEL OF RECORD THROUGH JAWS*