UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO: 10-md-02183-PAS

IN RE: Brican America LLC Equipment Lease Litigation

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ORDER OF REFERRAL TO MEDIATION

Trial having been set in this matter under separate order of the Court, and pursuant to Federal Rule of Civil Procedure 16(c)(9) and Southern District Local Rule 16.2, it is hereby

ORDERED as follows:

1. All parties must participate in mediation by **November 24, 2011**.

2. Plaintiff's counsel, or another attorney agreed upon by all counsel of record and any unrepresented parties, shall be responsible for scheduling the mediation conference. The parties are encouraged to avail themselves of the services of any mediator on the List of Certified Mediators, maintained in the office of the Clerk of Court, but may select any other mediator. The parties shall agree upon a mediator and shall file a Notice of Selection of Mediator with the Court, **within twenty-eight (28) days from the date of this Order**. If there is no agreement, lead counsel shall promptly notify the Court by filing a Notice for Clerk to Appoint a Mediator, and the Clerk shall designate a mediator from the List of Certified Mediators, which designation shall be made on a blind rotation basis.

4. A place, date and time for mediation convenient to the mediator, counsel of record, and unrepresented parties shall be established. The lead attorney shall complete the form order attached and submit it to the Court for entry **within sixty (60) days from the date of this Order**. The mediation date may not be extended without prior court approval. If at any time the mediation date is rescheduled, the parties **must** file a new Order Scheduling Mediation.

5. Except as provided under Local Rule 16.2.E for public-sector entities, the appearance of counsel and each party or representatives of each party with full authority to enter into a full and

complete compromise and settlement is mandatory. Appearance shall be in person; telephonic appearance is prohibited. If insurance is involved, an adjustor with authority up to the policy limits or the most recent demand, whichever is lower, shall attend.

6. All discussions, representations and statements made at the mediation conference shall be confidential and privileged.

7. At least fourteen (14) days prior to the mediation date, all parties shall present to the mediator a confidential written summary of the case identifying issues to be resolved.

8. The Court may impose sanctions against parties and/or counsel who do not comply with the attendance or settlement authority requirements herein or who otherwise violate the terms of this Order. The mediator shall report non-attendance and may recommend imposition of sanctions by the Court for non-attendance.

9. The mediator shall be compensated in accordance with the standing Order of the Court entered pursuant to Rule 16.2.B.7, or on such basis as may be agreed to in writing by the parties and the mediator selected by the parties. The cost of mediation shall be shared equally by the parties unless otherwise ordered by the Court. All payments shall be remitted to the mediator within 30 days of the date of the bill. Notice to the mediator of cancellation or settlement prior to the scheduled mediation conference must be given at least two (2) full business days in advance. Failure to do so will result in imposition of a fee for one hour.

10. If a full or partial settlement is reached in this case, counsel shall promptly notify the Court of the settlement in accordance with Local Rule 16.2.F, by the filing of a notice of settlement signed by counsel of record within fourteen (14) days of the mediation conference. Thereafter the parties shall forthwith submit an appropriate papers concluding the case. The case will remain on the trial calendar until an order dismissing the action is entered by the Court.

11. Within seven (7) days following the mediation conference, the mediator shall file a Mediation Report indicating whether all required parties were present. The report shall also indicate

whether the case settled (in full or in part), was continued with the consent of the parties, or whether the mediator declared an impasse.

12. If mediation is not conducted, the case may be stricken from the trial calendar, and other sanctions may be imposed.

DONE AND ORDERED at Miami, Florida, this 20th day of December, 2010.

PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO: 10-md-02183-PAS

IN RE: Brican America LLC Equipment Lease Litigation

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ORDER SCHEDULING MEDIATION

The mediation conference in this matter shall be held with _____

_____ on _____, 20__, at _____.m., at _____

_____, Florida.

DONE AND ORDERED at Miami, Florida, this ____ day of _____, 20__.

_____
PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc: