

# Small businesses should focus on quick dispute resolution

Attorney: Simple additions to contracts or invoices can help relieve potential headaches.



AARON COHN

Large corporations invest significant time and resources designating contractual remedies for disputes that might arise. These remedies are often buried in agreements generally ignored by the consumer, who has little choice but to agree.

For instance, many publicly traded companies require binding arbitration on an individualized basis to resolve disputes and often select a forum convenient for their purposes. The cruise industry, for example, requires most consumer claims be brought in federal court in the Southern District of Florida.

By contrast, many small businesses do not have the time or resources to consider how to address dispute resolution on a large scale, focused instead on business operations and without an on-hand attorney to advise. Moreover, negotiating a dispute resolution clause is often prohibitive for smaller transactions, and many small claims disputes are often dropped if they cannot be resolved.

Quite simply, there is no efficient enforcement mechanism to secure contractual obligations. In addition, paying an attorney is not economically feasible in many instances.

This problem can be remedied, in some circumstances, by creating efficient contractual dispute procedures that reduce costs and the time to resolution. If the dollar value of a transaction is low, the dispute is simple, or if there is a desire to avoid expensive litigation in court and resolve disputes quickly, small businesses should consider the following suggested terms for inclusion in their contracts or invoices:

**Agree to mediate early:** Add an agreement to mediate any dispute early, whether by formal or informal means. Doing this can often result in a resolution. Do not make mediation a condition precedent to other resolution procedures, as it might delay resolution rather than encourage it. If the counterparty is a party with whom you do business often, try to select a mediator both parties know and trust. Make the mediation as simple as possible by, among other factors, allowing parties to attend by videoconference.

**Adopt mandatory arbitration:** A mandatory arbitra-

tion clause in your contracts should establish the arbitration service that will be used, the applicable rules for arbitration, the venue and choice of law. In some circumstances, the arbitration clause can identify the individual arbitrator that the parties agree to use. Arbitration is not always the least-expensive method for resolving disputes, but it allows more latitude in setting the rules, including reducing the burden of discovery otherwise available in court proceedings and reducing the time available before a final hearing.

**Limit discovery:** For uncomplicated matters, discovery should be limited to document requests and production — unless the business knows in advance the claim cannot be proven without testimony or other information that would justify subpoenas or depositions, among other discovery tools. By limiting discovery in arbitration, all parties' actual costs and opportunity costs are reduced.

**Establish a deadline for a final hearing:** For uncomplicated matters that can be determined via documentation or with direct testimony, a 160-day deadline for the final arbitration hearing is appropriate.

**Give teeth to arbitration proceedings:** A good arbitration clause should include entitlement to an award of attorneys' fees, direct costs and the costs and expenses of arbitration for the prevailing party. Including such a provision reduces incentive for parties to violate their contractual obligations and encourages early resolution by the liable party.

**Make enforcement a priority:** Find a lawyer who can bring an enforcement action under terms that are economically feasible and make enforcement a priority, so counterparties know they cannot avoid obligations. Enforcement becomes easier once a system is established for new disputes that are known to the party or parties.

These suggestions should make enforcement of small business contracts more economical by avoiding burdensome discovery procedures available in court and by providing incentive and procedures to resolve disputes early. One of the benefits of arbitration is that there is no right to appeal absent exceptional circumstances, and the decision of the arbitrator is generally final.

*Aaron Cohn is a partner with Weinberg Wheeler Hudgins Gunn & Dial. His practice advises businesses on corporate issues and resolving disputes over contracts, investments and employment matters. Based in Miami, Cohn has clients in Naples and other parts of Florida.*

## NOTICE OF PUBLIC HEARING Pasco County Board of County Commissioners to Consider a Petition to Establish the Woodcreek Community Development District

**DATE:** Tuesday, April 5, 2022

**TIME:** 1:30 p.m.

**LOCATION:** Historic Pasco County Courthouse  
Board Room, 2nd Floor  
37918 Meridian Avenue  
Dade City, Florida 33525

In compliance with the provisions of Chapter 190, Florida Statutes, a public hearing will be held by the Pasco County Board of County Commissioners on the 5th day of April, 2022 at 1:30 p.m. at the Historic Pasco County Courthouse Board Room, 37918 Meridian Avenue, Dade City, Florida 33525, to consider an ordinance to grant a petition to establish the Woodcreek Community Development District ("District").

The District is comprised of approximately 337.058 acres, generally located east of Meadow Point Boulevard, north of Oldwoods Avenue and south of State Road 56. The petitioner has proposed to establish the District to plan, finance, acquire, construct, operate and maintain infrastructure and community facilities which may be authorized by such district under Florida law, including but not limited to: roadways, wastewater collection, potable water distribution, reclaimed water distribution, stormwater management system, perimeter landscaping and irrigation, offsite utilities distribution, offsite access improvements, and other infrastructure and professional fees.

Information concerning this matter will be on file and available for examination in the office of the Planning and Development Department, West Pasco Government Center, 8731 Citizens Drive, Suite 360, New Port Richey, Florida 34654, (727) 847-8140 ext. 1953. All interested persons and affected units of general-purpose government shall be given an opportunity to appear at the hearing and present oral or written comments on the petition. Any persons or affected unit of general-purpose local government, who wish to appeal any decision made by the Board with respect to any matter considered at this public hearing will need a record of the proceedings. For that purpose the person or unit of general-purpose local government may need to insure that a verbatim record of the proceedings is made that includes the testimony and evidence upon which the appeal is to be based. For virtual meetings, persons may obtain a verbatim record of the proceeding by contacting the Clerk and Comptroller's Office, East Pasco Government Center, 14326 6th Street, Suite 201, Dade City, Florida 33523-3414; or at (352) 521-4345.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact County's Human Resources Department, Internal Services Building, 7536 State Street, New Port Richey, FL 34654, (727) 847-8030 (V) at least 7 days before the public hearing, or immediately upon receiving this notification if the time before the public hearing is less than 7 days; if you are hearing or voice impaired, call 711.

