

<u>APPENDIX TABLE OF CONTENTS</u>	PAGE
Appendix A - February 18, 2016 DC Memo Order	1a
Appendix B - Docket Sheet	6a

APPENDIX A**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

SARA ANN EDMONDSON, : Civil Action No. 13-7704

Plaintiff, : (RMB/JS)

v. : **MEMORANDUM ORDER**

LILLISTON FORD, INC. et al :

Defendants. :

This matter comes before the Court upon receipt of Plaintiff Sara Ann Edmondson's "Demand for District Court Order Granting or Denying Motion for Summary Judgment Filed September 5, 2015." [Docket No. 73]

On June 22, 2015, this Court entered an Order Compelling Arbitration pursuant to 9 U.S.C. § 4. [Docket No. 61]. The Court entered this Order after it determined it had subject matter jurisdiction. Unfortunately, since this Court's Order, the parties have been unable to agree upon an arbitrator to conduct the arbitration.

On or about July 15, 2015, Plaintiff filed a demand for arbitration with the American Arbitration Association ("AAA"). [Docket NO. 67 at 7]. Defendant Lilliston Ford would not agree to arbitrate before the AAA as it had apparently severed its ties with the association years ago; Defendant further disputed that it should advance the filing fees. [Docket No. 67 at 10]. On August 17, 2015, Defendant provided the names of three arbitrators to Plaintiff. [Docket No. 70-6]. To date, Plaintiff Edmondson has not agreed to any of the three potential arbitrators. The Court conducted oral argument on this matter on January 27, 2016, once again to resolve the parties' obstacles to arbitration.

The applicable contract between the parties provides as follows:

The parties to this agreement agree to arbitrate any claim, dispute, or controversy ... relating to the sale or lease [of the automobile in question]. ...
The arbitration shall be conducted in accordance with the rules of the American Arbitration Association before a single arbitrator, who shall be a retired judge or an attorney. Dealership shall advance both party's filing, service, administration, arbitrator, hearing, or other fees, subject to

reimbursement by decision of the arbitrator. Each party shall bear his or her own attorney, expert, and other fees and costs, except when awarded by the arbitrator. The arbitration shall take place in New Jersey
[Docket No. 14, Ex. A].

Thus, it is clear that the arbitrator must be a retired judge or an attorney who will conduct the arbitration in accordance with the rules of the American Arbitration Association and in New Jersey. The contract does not provide that the American Arbitration Association must conduct the arbitration.

It is clear to the Court that, as of this date, the parties are unable to agree on the naming of an arbitrator. In fact, Plaintiff has made clear that she "will not adhere to the District Court's directive" to select one of the three arbitrators suggested by Defendant or propose an arbitrator of her own. [

Docket No. 73, at 1]. 9 USC § 5 provides:

Appointment of arbitrators or umpire

If in the agreement provision be made for a method of naming or appointing an arbitrator or arbitrators or an umpire, such method shall be followed; but if no method be provided therein, or if a method be provided and any party thereto shall fail to avail

himself of such method, or if for any other reason
there shall be a lapse in the naming of an arbitrator
or arbitrators or umpire, or in filling a vacancy,
then upon the application of either party to the
controversy the court shall designate and appoint
an arbitrator or arbitrators or umpire, as the case
may require, who shall act under the said
agreement with the same force and effect as if he
or they had been specifically named therein; and
unless otherwise provided in the agreement the
arbitration shall be by a single arbitrator.

Accordingly,

IT IS ON THIS 18th day of February 2016, hereby
ORDERED, as this Court has previously ordered, that the
parties shall agree on the selection of an arbitrator who is
an attorney or retired judge by March 10, 2016; and

IT IS FURTHER **ORDERED** that in the event the
parties fail to agree on an arbitrator by that date, the
Plaintiff may move this Court pursuant to 9 U.S.C. § 5 for
the appointment of an arbitrator; and

IT IS FURTHER **ORDERED** that **in the event**
Plaintiff fails to move for such appointment (again, in the
event parties could not agree on an arbitrator), the Court
will deem Plaintiff's failure to do so as an abandonment of

her claims and the within Complaint will be dismissed;
and

IT IS FURTHER ORDERED that the Clerk of the Court shall ADMINISTRATIVELY TERMINATE the pending motion [Docket No. 67] as improperly filed.

s/Renée Marie Bumb

Renée Marie Bumb
United States District Judge

APPENDIX B

U.S. District Court
District of New Jersey [LIVE] (Camden)
CIVIL DOCKET FOR CASE#: 1:13-cv-07704-RMB-JS

09/03/2015	<u>67</u>	MOTION for Summary Judgment, filed by SARA ANN EDMONDSON. (drw) (Entered: 09/03/2015)
09/03/2015		Set/Reset Deadlines as to <u>67</u> . MOTION for Summary Judgment. Motion set for 10/5/2015 before Judge Renee Marie Bumb. The motion will be decided on the papers. No appearances required unless notified by the court. (drw) (Entered: 09/03/2015)
09/03/2015		CLERK'S QUALITY CONTROL MESSAGE - Please be advised, all filings are to be filed directly with the Clerk of Court. Pursuant to Judge Bumb's Rules and Procedures, only courtesy copies are to be submitted directly to chambers. This message is for informational purposes.
09/09/2015	<u>68</u>	RESPONSE to Opposition of <u>67</u> MOTION for Summary Judgment, filed by SARA ANN EDMONDSON. (drw) (Entered: 09/09/2015)

09/18/2015	<u>69</u>	Letter from SARA ANN EDMONDSON in response to the Quality Control Message entered on 9/3/2015. (drw) (Entered: 09/18/2015)
10/03/2015	<u>70</u>	BRIEF in Opposition filed by LILLISTON FORD, INC. re <u>67</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Certification of Service, # <u>2</u> Supplement, # <u>3</u> Declaration, # <u>4</u> Certification, # <u>5</u> Text of Proposed Order, # <u>6</u> Exhibit) (DECLEMENT, DAVID) (Entered: 10/03/2015)
01/06/2016	<u>71</u>	LETTER ORDER Setting ORAL ARGUMENT re. <u>67</u> MOTION for Summary Judgment for 1/27/16 @ 1:30 PM in Camden - Courtroom 3D before Judge Renee Marie Bumb. Signed by Judge Renee Marie Bumb on 1/6/2016. (drw) (Entered: 01/06/2016)
01/27/2016	<u>72</u>	Minute Entry for proceedings held before Judge Renee Marie Bumb: Oral Argument held on 1/27/2016. Plaintiff directed to respond to Defendants letter of August 17, 2015 proposing three arbitrators [Docket No. 70-6 Ex. 1] or provide Defendant with list of alternative

		arbitrators.(Court Reporter TEd Formaroli) (ar1,) (Entered 01/27/2016)
01/29/2016	<u>73</u>	Letter from Sara Ann Edmondson re <u>72</u> Oral Argument hearing held on 1/27/2016. (TH,)(Entered: 01/29/2016)
02/18/2016	<u>74</u>	**VACATED PER <u>77</u> ORDER** ORDER directing the parties to agree on the selection of an arbitrator by 3/10/2016, etc; administratively terminating <u>67</u> Motion for Summary Judgment as improperly filed. Signed by Judge Renee Marie Bumb on 2/18/2016. (drw) Modified on 3/3/2016 (js). (Entered: 02/18/2016)