



REPORT OF PRELIMINARY MANAGEMENT HEARING AND SCHEDULING ORDER

Case Number: 01-21-0003-8509

Linh Nguyen

-vs-

Lambda, Inc.

Pursuant to the Consumer Arbitration Rules of the American Arbitration Association (AAA) a telephonic Preliminary Hearing was held on August 30, 2021, before Arbitrator Linda Hendrix McPharlin.

The following attendees participated in the Preliminary Hearing:

For Claimant: Philip Andonian
Justin Berger
Alexander Elson
Maya Weinstein

For Respondent: Patrick Hammon

By agreement of the parties and/or by Order of the Arbitrator, the following is now in effect:

1. Hearing:

An **in-person evidentiary hearing** in this matter will commence before the Arbitrator on:

Date: February 24-25, 2022

Time: 9:30 AM to 4:30 PM

Location: American Arbitration Association San Francisco Regional Office
One Sansome St., Suite 1600
San Francisco, CA 94104

NOTE: The arbitrator moved the agreed upon date for hearing forward by three days because of a scheduling conflict. Respondent was to confirm his client's agreement to hear the case in San Francisco. Should either the date of the hearing or the location be a problem, the parties should notify AAA by September 7, 2021. After that, the date and location will be a firm setting and will not be changed or continued absent exceptional circumstances.

2. Claim/Counterclaim (Consumer Rule R-8):

The Claim is currently identified as a claim for injunctive and declaratory relief, damages, and punitive damages, arising from Respondent's alleged violations of California's Consumer Legal Remedies Act, Unfair Competition Law, False Advertising Law, and Respondent's intentional and negligent misrepresentation.

No Counterclaim has yet been filed. Any Counterclaim must be filed by September 14, 2021.

Pursuant to the direction of the Arbitrator(s), all parties shall amend/specify claims and/or counterclaims by September 20, 2021.

Responses, if any, to new or different claims/counterclaims are due fourteen (14) calendar days from the date the AAA notifies the parties it received the new or different claim/counterclaim.

3. Applicable Law

The Consumer Rules of the American Arbitration Association and the Federal arbitration statute/act will apply in this arbitration and California law will be applied substantively to this arbitration.

4. Dispositive Motions (Consumer Rule R-33):

The Arbitrator may allow the filing of a dispositive motion if the arbitrator determines that the moving party has shown substantial cause that the motion is likely to succeed and dispose of or narrow the issues of the case.

A party shall request leave to file a dispositive motion by letter to the arbitrator filed and served on or before December 14, 2021. The opposing party's response shall be filed and served by December 17, 2021. The request and the response shall each not exceed three (3) pages. If a Party is granted leave to file a dispositive motion, a schedule for submissions will be established.

5. Written Motions (Consumer Rule R-24):

The arbitrator may consider a party's request to file a written motion (other than a dispositive motion) only after the parties and the arbitrator conduct a conference call to attempt to resolve the issue. Only after the parties and the arbitrator hold the call may the arbitrator consider a party's request to file a written motion. The arbitrator has the sole discretion to allow or deny the filing of a written motion and her decision is final. The parties are urged to meet and confer in good faith prior to requesting a conference for a motion be filed.

6. Exchange of Information (Consumer Rule R-22):

Not later than October 20, 2021, the parties shall exchange all copies of (or, when appropriate, make available for inspection) all exhibits to be offered and all schedules, summaries, diagrams and charts to be used at the hearing and itemized claims and counterclaims.

No other exchange of information beyond what is provided for in section (a) of R-22 is contemplated under the Consumer Rules, *unless* an arbitrator determines further information exchange is needed to provide for a fundamentally fair process. The arbitrator has authority to resolve any disputes between the parties about exchanging information.

- a. The AAA does not require a copy of the exhibits for our file.
- b. Each party shall bring sufficient copies to the hearing for opposing parties, the Arbitrator(s), and the witness.
- c. Each proposed exhibit shall be pre-marked for identification using the following designations:

Party	Exhibit #	To Exhibit #
Claimant	C1	C_____

Respondent	R1	R_____
Joint	J1	J_____

d. The parties shall attempt to agree upon and submit a jointly prepared consolidated and set of joint exhibits and number the exhibits with the prefix J. The joint exhibits are due at the time of hearing.

7. Cybersecurity and Privacy:

Having reviewed the *AAA-ICDR® Best Practices Guide for Maintaining Cybersecurity and Privacy* and discussing what specific precautions might be required with regard to cybersecurity, privacy, and data protection in order to ensure an appropriate level of security for this case, the parties will implement those measures which provide the protection they seek.

8. Witnesses (Consumer Rule R-22):

Not later than October 20, 2021, the parties shall serve and file a disclosure of witnesses, including any experts, reasonably expected to be called at the hearing. The disclosure of witnesses shall include the full name of each witness and a short summary of anticipated testimony. If certain required information is not available, the disclosure shall so state.

9. Post-Hearing Submission Regarding Attorneys' Fees and Costs:

The Parties have until a date to be set by the Arbitrator at the conclusion of the Final Hearing, to file and serve any documentation supporting or evidencing the amount of attorneys' fees and costs they seek to recover.

The Parties have until a date set by the Arbitrator at the conclusion of the Final Hearing, to file and serve any documentation disputing the amount of attorneys' fees and costs sought in connection with this arbitration.

No other evidence and no legal arguments may be included in the submission, unless requested by the Arbitrator at the conclusion of the Final Hearing.

10. Disclosures of the Arbitrator:

Each party and counsel has a continuing obligation to protect the integrity of the arbitration proceeding by promptly providing the Arbitrator the information necessary to allow him/her/them to comply with his/her/their ongoing duty of disclosure pursuant to the Code of Ethics for Arbitrators in Commercial Disputes and the American Arbitration Association.

Counsel, for themselves and for each of their clients, acknowledge the continuing obligation to supplement the identification of potential fact and expert witnesses, consulting experts, counsel participation and representation in any capacity, and any other individual or entity interested in the outcome of the arbitration.

Any issues concerning disqualification of the Arbitrator shall be raised promptly with the AAA.

11. Communication:

Communication with the Arbitrator will be conducted through the AAA Case Administrator.

All correspondence shall be submitted to the AAA Case Administrator for transmittal to the Arbitrator and must be sent simultaneously to all other case participants. There shall be no direct oral or written

communication between the parties and the Arbitrator except at oral hearings.

12. **Award** (Consumer Rule R-43):

Any award shall be in writing and executed in the form and manner required by law. The award shall provide the concise written reasons for the decision unless the parties all agree otherwise. The arbitrator shall decide any disagreements over the form of the award.

The award shall be issued no later than 30 calendar days from the date the hearing is declared closed by the arbitrator.

All deadlines stated herein will be strictly enforced and adhered to in order to avoid unnecessary delay and to ensure an expeditious and fair resolution of this matter.

This order shall continue in effect unless and until amended by subsequent order of the Arbitrator.

9/13/21

Date



Linda Hendrix McPharlin, Arbitrator