UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CHURCH OF GOD FLORIDA STATE OFFICES, INC.,	§	
Plaintiff	§	
	§	CIVIL ACTION NO. 8:25-cv-03199
v.	§	
MT. HAWLEY INSURANCE COMPANY,	§	
Defendant.	§	

DEFENDANT MT. HAWLEY INSURANCE COMPANY'S
MOTION TO TRANSFER VENUE AND BRIEF IN SUPPORT

Defendant Mt. Hawley Insurance Company ("Mt. Hawley") files this Motion to Transfer Venue to the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 1404(a). In support, Mt. Hawley respectfully shows this Court as follows:

I.
INTRODUCTION

This is an insurance coverage dispute regarding property (the "Property") that is insured under a policy of property insurance issued by Mt. Hawley, Policy No. MWC0601917 (the "Policy"). Plaintiff filed this suit against Mt. Hawley in Florida state court seeking to recover benefits under the Policy. (*See* Doc. 1, Notice of Removal).

By filing suit against Mt. Hawley in Florida, Plaintiff violated the Policy's mandatory forum selection clause that requires any litigation to be brought only in New York. The Policy specifically provides as follows:

> **LEGAL ACTION CONDITIONS ENDORSEMENT**
>
> This endorsement adds the following to LEGAL ACTIONS AGAINST US elsewhere in the Policy:
>
> > In the event of any litigation involving any matter arising out of or relating to this Policy, it is agreed that any Named Insured, any additional insured, any purported insured, or any beneficiary or purported beneficiary of this Policy shall submit to the jurisdiction of the New York state and New York federal courts, and shall comply with all the requirements necessary to give such court jurisdiction. **Any litigation arising out of or relating to this Policy shall be brought only in the state or federal courts of New York**. Nothing in this clause constitutes or should be understood to constitute a waiver of the Company's right to remove an action to a United States District Court.
> >
> > All matters arising out of or relating to this Policy shall be determined in accordance with the law and practice of the State of New York (notwithstanding New York's conflict of law rules). All matters include, without limitation, the procurement, formation, issuance, validity, interpretation, and enforcement of this Policy, as well as claim handling and any other performance in connection with this Policy.

Exhibit A, Policy at p. 32 of 43 (emphasis added). To enforce this forum selection provision, Mt. Hawley seeks a transfer to the U.S. District Court for the Southern District of New York pursuant to 28 U.S.C. § 1404(a) and *Atlantic Marine Construction Company v. U.S. District Court for Western District of Texas*, 571 U.S. 49, 62 (2013). The Court should enforce this provision and grant Mt. Hawley's

motion because the Policy's forum selection clause is valid, enforceable, and mandatory. It was contracted for by Plaintiff and Mt. Hawley, and it plainly covers all of Plaintiff's claims against Mt. Hawley. As demonstrated below, courts routinely enforce this type of forum selection clause in situations involving insurance carriers like Mt. Hawley.

At the outset, it is important to understand that Mt. Hawley has literally prevailed on this transfer issue over seventy times before federal district courts around the country. In the one instance where Mt. Hawley was forced to file a Petition for Writ of Mandamus regarding this transfer issue, the U.S. Fifth Circuit immediately reversed the district court's erroneous ruling, instructed the district court to vacate its order denying Mt. Hawley's motion to transfer venue, and ordered that the case be transferred to the U.S. District Court for the Southern District of New York. *In re Mt. Hawley Ins. Co.*, No. 22-30111, 2022 WL 5360188 (5th Cir. April 28, 2022) (granting petition for writ of mandamus and ordering trial court to transfer the case), 2022 WL 5435477 (W.D. La. April 29, 2022) (vacating order denying transfer and transferring case) (attached as **Exhibit B**). More recently, in *Hotel Mgmt. of New Orleans, L.L.C. v. Gen. Star Indem. Co*., No. 22-30354, 2023 WL 3270904 (5th Cir. May 5, 2023) (attached as **Exhibit C**), the Fifth Circuit enforced an insurer's forum selection clause that is effectively identical to the one in Mt. Hawley's policy and affirmed the dismissal of the suit against the insurer. As

demonstrated below, this is consistent with every other federal court ruling that has addressed Mt. Hawley's forum selection clause.

This Court has consistently enforced identical or substantively identical New York forum selection clauses contained in Mt. Hawley's policies. *See. e.g., Shree Shivaay, LLC v. Mt. Hawley Ins. Co*., No. 8:25-cv-1567 (M.D. Fla. July 24, 2025) (attached as **Exhibit D**). Recently, Judge Conway granted Mt. Hawley's Motion to Transfer Venue, holding that the provision was mandatory. *See Motorsports of Melbourne, Inc. v. Mt. Hawley Insurance Co*., No. 6:25-cv-00513 (M.D. Fla. Apr. 15, 2025) (attached hereto as **Exhibit E**). Judge Antoon likewise granted Mt. Hawley's motion to transfer venue, also holding the provision was mandatory and unambiguously required the case to be adjudicated in New York. *Motorsports of Melbourne, Inc. v. Mt. Hawley Insurance Co*., No. 6:25-cv-00036 (M.D. Fla. Feb. 19, 2025) (attached hereto as **Exhibit F**). In addition, Judge Mizelle granted Mt. Hawley's Motion to Transfer Venue and transferred the case to the Southern District of New York based upon a substantially identical forum selection provision. *El Olivo Mexican Restaurant, LLC v. Mt. Hawley Insurance Co*., No. 8:24-cv-02613 (M.D. Fla. Nov. 25, 2024) (attached as **Exhibit G**). Judge Howard also recently granted Mt. Hawley's Motion to Transfer Venue, holding the parties had plainly agreed to resolve their disputes in New York. *Touchmark Hotel Group, LLC v. Mt. Hawley Insurance Co*., No. 3:24-cv-00424 (M.D. Fla. Sept. 4, 2024) (attached as **Exhibit**

H). Judge Steele granted Mt. Hawley's Motion to Transfer, also based upon a substantially identical forum selection provision. *Fady Fakhoury DDS, PA v. Mt. Hawley Insurance Co*., No. 2:24-cv-683 (M.D. Fla. Aug. 30, 2024) (attached as **Exhibit I**). Judge Mendoza also transferred a case to the Southern District of New York based upon the same forum selection provision at issue herein. *Executive Eagles Investments Group, LLC v. Mt. Hawley Insurance Co*., No. 6:24-cv-00311 (M.D. Fla. Jun. 4, 2024) (attached as **Exhibit J**). Based upon the same forum selection clause at issue here, Judge Presnell granted Mt. Hawley's Motion to Transfer Venue, holding the parties had plainly agreed to resolve their disputes in New York. *Shri Dayavant LLC v. Mt. Hawley Ins. Co.*, No. 6:24-cv-331, Doc. 14 (M.D. Fla. March 11, 2024) (holding that "the parties plainly bargained for and agreed to resolve their disputes in a particular forum, . . ." and that "Where New York law governs the Policy, the Southern District of New York is better suited to adjudicate this dispute.") (attached as **Exhibit K**). Based upon a substantially identical forum selection clause, Judge Conway twice granted Mt. Hawley's Motion to Transfer Venue to the Southern District of New York. *St. Stephen's Knanaya Catholic Mission Orlando, Inc. v. Mt. Hawley Insurance Co*., No. 6:24-cv-00114 (M.D. Fla. Feb. 8, 2024) (holding the forum selection clause was mandatory) (attached as **Exhibit L**); and *Belly Busters, LLC v. Mt. Hawley Insurance Co*., No. 6:24-cv-00030 (M.D. Fla. Feb. 7, 2024) (same) (attached as **Exhibit M**). Judge

Corrigan granted Mt. Hawley's Motions to Transfer Venue to the Southern District of New York in three separate cases. *10110 Group, LLC v. Mt. Hawley Insurance Co*., No. 8:23-cv-01604 (M.D. Fla. Aug. 10, 2023) (holding forum selection clause was mandatory) (attached as **Exhibit N**); *Capital One First Mgmt., LLC v. Mt. Hawley Ins. Co*., No. 3:23-cv-00176 (M.D. Fla. Mar. 10, 2023) (attached as **Exhibit O**); *Ninora, LLC v. Mt. Hawley Ins. Co*., No. 3:22-cv-00870 (M.D. Fla. Oct. 19, 2022) (attached as **Exhibit P**). Judge Mendoza granted Mt. Hawley's Motion to Transfer Venue, holding a substantially identical clause was valid and enforceable. *Krishiv, LLC v. Mt. Hawley Ins. Co*., No. 6:22-cv-02284 (M.D. Fla. Jan. 9, 2023) (holding provision was presumptively valid, enforceable, and required transfer to New York) (attached as **Exhibit Q**). Judge Honeywell also granted Mt. Hawley's Motion to Transfer in two separate cases. *Smith v. Mt. Hawley Ins. Co*., No. 8:22-cv-01386, 2022 WL 16856418 (M.D. Fla. Nov. 10, 2022) (finding that a substantially identical forum selection clause was controlling and did not contravene public policy) (attached as **Exhibit R**); *La Teresita, Inc. v. Mt. Hawley Ins. Co.*, No. 8:22-cv-01046, 2022 WL 1805139 (M.D. Fla. Jun 2, 2022) (attached as **Exhibit S**). Judge Schlesinger granted Mt. Hawley's Motion to Transfer Venue to the Southern District of New York, finding that the clause was unambiguous and mandatory. *Murray Hill Presbyterian Church v. Mt. Hawley Ins. Co.*, No. 3:21-cv-1077-HES-JBT, Doc. 20 (M.D. Fla. May 12, 2022) (attached hereto as **Exhibit T**).

Moreover, Judge Strauss of the Southern District of Florida recently granted Mt. Hawley's Motion to Transfer Venue based upon a substantially identical forum selection provision. *Hossain v. Mt. Hawley Insurance Co*., 0:24-cv-61636 (S.D. Fla. Jan 2, 2025) (attached as **Exhibit U**). Judge Bloom of the Southern District also granted Mt. Hawley's Motion to Transfer Venue based on a substantially identical forum selection clause. *GO 770 Management, LLC v. Mt. Hawley Insurance Co*., 0:24-cv-61176-BB (S.D. Fla. Oct. 25, 2024) (attached as **Exhibit V**). Judge Goodman of the Southern District of Florida granted RLI Insurance's Motion to Transfer Venue based on an identical forum selection clause. *Storm Damage Solutions, LLC v. RLI Insurance Co*., No. 1:23-cv-23681 (S.D. Fla. Nov. 17, 2023) (finding the forum selection clause unambiguous and mandatory) (attached as **Exhibit W**). Judge Williams of the Southern District also transferred a case to the Southern District of New York based on a substantially identical forum selection clause. *Valdes v. Mt. Hawley Ins. Co.*, No. 1:23-cv-20023 (S.D. Fla. Feb. 28, 2023) (attached as **Exhibit X**). Judge Martinez of the Southern District of Florida granted Mt. Hawley's Motion to Transfer Venue to the Southern District of New York, also based on the identical forum selection clause at issue here, expressly rejecting the insured's contention that the mandatory forum selection provision was somehow the product of overreaching, that transfer would deny the insured complete relief, or that the provision was somehow void under Florida public policy. *Recovery Performance*

& Marina, LLC d/b/a Jetski of Miami v. Mt. Hawley Ins. Co. and Renaissance Re Syndicate 1458 Lloyd's, No. 22-21495-CIV, Doc. 20 (S.D. Fla. July 21, 2022) (attached as **Exhibit Y**). Judge Cooke of the Southern District also granted Mt. Hawley's Motion to Transfer based on a substantially identical provision. *421 NW 12 St LLC v. Mt. Hawley Ins. Co.*, No. 1:22-cv-21537 (S.D. Fla. Jul. 14, 2022) (attached as **Exhibit Z**). Judge Gayles of the Southern District of Florida granted Mt. Hawley's Motion to Transfer to the Southern District of New York based on a substantially identical forum selection clause at issue here. *Doral City Invests., Inc. v. Mt. Hawley Ins. Co*., No. 1:21-cv-24484 (S.D. Fla. Apr. 6, 2022) (attached as **Exhibit AA**); *Gregorio Pinto v. Mt. Hawley Ins. Co*., No. 1:22-cv-20089 (S.D. Fla. Mar. 15, 2022) (attached as **Exhibit BB**). In addition, Judge Singhal of the Southern District of Florida granted Mt. Hawley's Motion to Transfer to the Southern District of New York, finding that claims arising under the policy must be brought in New York because the policy's forum selection clause (substantially identical to the one at issue herein) was mandatory. *New Hope Missionary Baptist Church v. Mt. Hawley Ins. Co.*, No. 0:21-cv-61335-AHS, Doc. 11, at 4-5 (S.D. Fla. September 21, 2021) (attached hereto as **Exhibit CC**).

Judge Rodgers of the Northern District of Florida granted Mt. Hawley's Motions to Transfer Venue to the Southern District of New York in three separate cases. *Oasis Beauty Supply, Inc. v. Mt. Hawley Ins. Co*., No. 3:22-cv-06029 (N.D.

Fla. Jun. 6, 2022) (finding that a substantially identical forum selection clause was valid and public interest factors weighed in favor of transfer to the Southern District of New York) (attached as **Exhibit DD**); *Storm Damage Solutions, LLC v. Mt. Hawley Ins. Co*., No. 3:21cv1943-MCR-HTC, 2022 WL 2173075 (N.D. Fla. May 9, 2022) (holding that filing suit against Mt. Hawley in Florida violated the policy's mandatory forum-selection clause requiring that any litigation stemming from the policy be initiated in New York) (attached hereto as **Exhibit EE**); *Summerwind West Condominium Owners Ass'n, Inc. v. Mt. Hawley Ins. Co.*, No. 3:21-cv-1040-MCR-EMT, Doc. 18, at 4 n.2, 8-9, 8 n.4, 9 n.5 (N.D. Fla. April 12, 2022) (granting Motion to Transfer Venue to the Southern District of New York, finding not only that the forum selection clause was mandatory and enforceable, but also explaining that the public interest factor regarding familiarity of the forum with the law that will govern weighed in favor of transfer) (attached hereto as **Exhibit FF**).

In addition, federal courts in Texas have consistently enforced identical or substantively identical New York forum selection clauses in Mt. Hawley's policies. S*ee Ridge Plaza Professional Center Condominium Owners Assoc., Inc. v. Mt. Hawley Ins. Co*., No. 7:25-cv-174 (S.D. Tex. July 10, 2025) (attached as **Exhibit GG**); *Rent Our Space, LLC v. Mt. Hawley Ins. Co.*, No. 7:25-cv-243 (S.D. Tex. July 9, 2025) (attached as **Exhibit HH**); *A&R Hotels LLC v. Mt. Hawley Ins. Co*., No. 4:25-cv-00464 (S.D. Tex. Apr. 21, 2025) (attached as **Exhibit II**); *Simran*

Hospitality, LLC v. Mt. Hawley Ins. Co., No. 7:24-cv-00415 (S.D. Tex. Feb. 21, 2025) (Tipton, J.) (holding that a substantially identical New York forum selection clause in another Mt. Hawley policy was mandatory and enforceable) (attached as **Exhibit JJ**); *Lidhar Hospitality, LLC v. Mt. Hawley Ins. Co*., No. 7:24-cv-00451 (S.D. Tex. Feb. 12, 2025) (Hinojosa, J.) (attached as **Exhibit KK**); *Pamm Family Properties, LLC v. Mt. Hawley Ins. Co*., No. 7:24-cv-00373 (S.D. Tex. Dec. 2, 2024) (Crane, C.J.) (attached as **Exhibit LL**); *Chapa Blue, LTD v. Mt. Hawley Ins. Co.*, No. 7:24-cv-273, Doc. 7 (S.D. Tex. July 15, 2024) (Crane, C.J.) (attached as **Exhibit MM**); *Danaby Rentals, Inc. v. Mt. Hawley Ins. Co*., No. 7:24-cv-96, Doc. 10 (S.D. Tex. May 6, 2024) (Bray, M.J.) (attached as **Exhibit NN**); *Chapa Blue, Ltd v. Mt. Hawley Ins. Co*., No. 7:23-cv-326 (S.D. Tex. Feb. 2, 2024) (Crane, C.J.) (finding that a substantially identical forum selection clause was mandatory and that, because the case could have initially been filed in the Southern District of New York, transfer was the appropriate and equitable remedy) (attached as **Exhibit OO**); *Panth Narsinh, LLC v. Mt. Hawley Ins. Co*., No. 4:23-cv-4097 (S.D. Tex. Jan. 4, 2024) (Hanks, J.) (attached as **Exhibit PP**); *US Rubber Corp. v. Mt. Hawley Ins. Co*., No. 4:23-cv-2104, 2023 WL 5511205 (S.D. Tex. Aug. 25, 2023) (Lake, J.) (finding the forum selection clause was valid and enforceable and that public interest factors did not weigh against enforcement) (attached as **Exhibit QQ**); *La Porte Hospitality, LLC v. Renaissance Re Syndicate 1458 Lloyd's*, No. 4:21-cv-3663 (S.D. Tex. Jun.

3, 2022) (Hanen, J.) (attached as **Exhibit RR**); *Davilyn Hospitality, Inc. v. Mt. Hawley Ins. Co.*, No. 1:23-cv-225 (E.D. Tex. Jul. 28, 2023) (attached as **Exhibit SS**); *Amusam v. Mt. Hawley Ins. Co.*, No. 3:21-cv-2096 (N.D. Tex. Dec. 3, 2021) (attached as **Exhibit TT**).

Likewise, federal district courts in Louisiana have repeatedly transferred Mt. Hawley cases to New York on the basis that the forum selection clause in Mt. Hawley policies are mandatory and enforceable. For instance, Judge Morgan recently analyzed the very same forum selection clause at issue in this case and found the requirement that litigation by the insured shall be initiated in New York mandated a transfer to that forum under 28 U.S.C. § 1404(a). *Greater St. Stephen Ministries v. Mt. Hawley Ins. Co.*, No. 2:23-cv-6662 (E.D. La. Apr. 15, 2024) (finding that mandatory forum selection clauses in insurance policies can be enforced despite statutory venue provisions) (attached as **Exhibit UU**). This is consistent with numerous other cases from each of the U.S. District Courts in Louisiana. For instance, Judge Dick of the Middle District of Louisiana recently transferred a case against Mt. Hawley to New York based upon a similar forum selection clause and, in doing so, noted that state and federal policies do not preclude enforcement of Mt. Hawley's forum selection clause and the Fifth Circuit has previously ordered transfer without the need to consider such factors. *Taramore Square, LLC v. Mt. Hawley Ins. Co.*, No. 3:23-cv-1278 (M.D. La. Apr. 15, 2024)

(attached as **Exhibit VV**); *see also Equity Capital Market, LLC v. Mt. Hawley Ins. Co.*, No. 3:24-cv-00316 (M.D. La. Aug. 13, 2024) (attached as **Exhibit WW**); *LeBlanc v. Mt. Hawley Ins. Co.*, No. 2:25-cv-400 (E.D. La. Apr. 16, 2025) (attached as **Exhibit XX**); *700 Camp Street, LLC v. Mt. Hawley Ins. Co.*, 2:23-cv-06304 (E.D. La. Apr. 1, 2024) (attached as **Exhibit YY**); *Canal@Camp Apartments, LLC*, No. 2:23-cv-5547 (E.D. La. Mar. 27, 2024) (finding a substantially identical forum selection clause was mandatory and enforceable despite the insured's claim that it was unaware of the provision) (attached as **Exhibit ZZ**); *Cleary Condominium Assoc., Inc. v. Mt. Hawley Ins. Co.*, No. 2:23-cv-6290 (E.D. La. Mar. 11, 2024) (attached as **Exhibit AAA**); *Littleleaf Properties, II, LLC v. Mt. Hawley Ins. Co.*, 2:23-cv-06176 (E.D. La. Feb. 7, 2024) (attached as **Exhibit BBB**); *Goodwill Indus. of S.E.La., Inc. v. Mt. Hawley Ins. Co.*, No. 2:23-cv-6416 (E.D. La. Jan. 11, 2024) (attached as **Exhibit CCC**); *BCJ Properties, LLC v. Mt. Hawley Ins. Co.*, No. 3:23-cv-00748 (M.D. La. Jan. 30, 2024) (attached as **Exhibit DDD**); *Nidal v. Mt. Hawley Ins. Co.*, No. 3:23-cv-1351 (M.D. La. Jan. 5, 2024) (attached as **Exhibit EEE**); *Brown's Village Plaza, LLC v. Mt. Hawley Ins. Co.*, No. 2:23-cv-5321 (E.D. La. Dec. 7, 2023) (attached as **Exhibit FFF**); *KMT Painting & Decorating, LLC v. Mt. Hawley Ins. Co.*, No. 2:23-cv-4003 (E.D. La. Nov. 30, 2023) (finding the provision contained clear, mandatory language specifying that litigation must occur in the specified forum) (attached as **Exhibit GGG**); *SR Hospitality, LLC v. Mt. Hawley*

Ins. Co., No. 2:23-cv-4114 (E.D. La. Nov. 9, 2023) (attached as **Exhibit HHH**); *Canal@Camp Apartments, LLC v. Mt. Hawley Ins. Co*., No. 2:23-cv-2816 (E.D. La. Nov. 6, 2023) (noting that any argument against enforcement of Mt. Hawley's forum selection clause on public policy grounds "has been firmly rejected by other courts, including the Fifth Circuit") (attached as **Exhibit III**); *Starlight Studios, LLC v. Mt. Hawley Ins. Co*., No. 2:23-cv-2014 (E.D. La. Oct. 10, 2023) (finding the forum selection clause was mandatory, enforceable, and could not be defeated by prior rulings) (attached as **Exhibit JJJ**); *Naz, LLC v. Mt. Hawley Ins. Co.*, No. 2:22-cv-4411 (E.D. La. Sept. 22, 2023) (attached as **Exhibit KKK**); *SR Hospitality LLC v. Mt. Hawley Ins. Co.*, No. 2:22-cv-5554 (W.D. La. Sept. 12, 2023) (attached as **Exhibit LLL**); *Esplanade 2018 Partners, LLC v. Mt. Hawley Ins. Co*., No. 2:23-cv-175 (E.D. La. Apr. 28, 2023) (attached as **Exhibit MMM**) (noting that courts routinely enforce this clause in Mt. Hawley's policies); *Domingue v. Mt. Hawley Ins. Co*., No. 2:22-cv-3590 (E.D. La. Jan. 25, 2023) (finding the clause was mandatory, valid, enforceable, and covers the insured's claims) (attached as **Exhibit NNN**); *Burk Holding Co., Inc. v. Mt. Hawley Ins. Co*., No. 2:22-cv-3503, 2023 WL 183898, *5-6 (E.D. La. Jan. 13, 2023) (attached as **Exhibit OOO**); *UMMIID, LLC v. Mt. Hawley Ins. Co*., No. 2:22-cv-5687, 2023 WL 122984 (W.D. La. Jan. 6, 2023) (attached as **Exhibit PPP**); *Brooks & Brooks Invs., LLC v. Mt. Hawley Ins. Co*., No. 2:22-cv-3854, 2022 WL 17476969, *2 (E.D. La. Dec. 6, 2022) (noting that such

forum selection clauses are valid, enforceable, and mandatory) (attached as **Exhibit QQQ**); *William B. Coleman Co., Inc. v. Mt. Hawley Ins. Co*., No. 2:22-cv-1686, 2022 WL 2806438 (E.D. La. July 22, 2022) (attached as **Exhibit RRR**).

Finally, pursuant to Mt. Hawley forum selection clauses substantially identical to the clause at issue here, U.S. District Courts in Oklahoma, Ohio, Alabama and South Carolina have also granted transfer to New York in response to Mt. Hawley's motions to transfer venue. *See, e.g., Renergy, Inc. v. Mt. Hawley Ins. Co*., No. 2:24-CV-4123, 2025 WL 1668512, at *4 (S.D. Ohio June 13, 2025) (enforcing the New York forum selection clause in another Mt. Hawley policy and transferring the case to the Southern District of New York) (attached as **Exhibit SSS**); *Idabel Hospitality, Inc. v. Mt. Hawley Ins. Co*., No. 6:24-cv-434-JAR, 2025 WL 1662689 (E.D. Okla. June 11, 2025) (attached as **Exhibit TTT**); *MB 1607, LLC v. Mt. Hawley Ins. Co*., No. 4:24-cv-01798 (D.S.C. Oct. 2, 2024) (attached as **Exhibit UUU**); *First Baptist Church of Satsuma v. Mt. Hawley Ins. Co*., No. 1:23-cv-00442 (S.D. Ala. Dec. 15, 2023) (attached as **Exhibit VVV**).

II.
APPLICABLE LAW

In *Atlantic Marine*, the United States Supreme Court held that valid forum selection clauses, such as the Policy's Legal Action Conditions Endorsement, must be enforced under 28 U.S.C. § 1404(a) "in all but the most extraordinary circumstances" unrelated to the convenience of the parties. *Atl. Marine Constr. Co.,*

Inc., 571 U.S. at 52, 59. District Courts may enforce forum selection clauses by transferring a civil action to a particular federal district under 28 U.S.C. § 1404(a). *Id.* at 59; *Ellis v. C.R. England, Inc.*, No. 4:21-cv-1172, 2022 WL 379954, at *2 (S.D. Tex. Jan. 11, 2022), *adopted* 2022 WL 377408 (Feb. 8, 2022). Courts nationwide have routinely enforced forum selection clauses in insurance contracts, even where the chosen forum has little to no connection to the parties' dispute. *See e.g.*, *Jenkins v. Prime Ins. Co.*, No. 1:20-cv-1263, 2021 WL 807612, at *9 (N.D. Ga. Mar. 3, 2021); *Al Copeland Invs., L.L.C. v. First Specialty Ins. Corp.*, 884 F.3d 540, 545 (5th Cir. 2018); *AGL Indus., Inc. v. Cont'l Indem. Co.*, No. 1:17-cv-4179, 2018 WL 3510387, at *5 (E.D.N.Y. July 19, 2018); *Union Elec. Co. v. Energy Ins. Mut. Ltd.*, No. 4:10-cv-1153, 2014 WL 4450467, at *6 (E.D. Mo. Sept. 10, 2014), *mandamus denied*, 787 F.3d 903 (8th Cir. 2015); *Berkley Reg'l Ins. Co. v. Weir Bros., Inc.*, No. 1:13-cv-3227, 2013 WL 6020785, at *5 (S.D.N.Y. Nov. 6, 2013).

As a preliminary matter, it is important to note that forum selection clauses are presumptively valid. *Krenkel v. Kerzner Int'l Hotels Ltd*., 579 F.3d 1279, 1281 (11th Cir. 2009). "Forum-selection clauses are presumptively valid and enforceable unless the plaintiff makes a 'strong showing' that enforcement would be unfair or unreasonable under the circumstances." *Id.* Clearly, as demonstrated below, no such showing can be made here.

The forum selection clause must also be mandatory, and the plaintiff's claims must fall within the scope of the forum selection clause. *See Slater v. Energy Servs. Grp. Int'l, Inc.*, 634 F.3d 1326, 1330-31 (11th Cir. 2011). As discussed below, there is absolutely no question in this case that the Policy's forum selection clause is mandatory because it expressly uses the word "shall." Likewise, the plain language of the Policy's broadly worded forum selection clause clearly establishes that it covers all of the claims Plaintiff asserts against Mt. Hawley.

Once it is shown that a valid, enforceable, and mandatory forum selection clause exists—which is the case here—the Court then conducts an analysis under § 1404(a) to determine whether "extraordinary circumstances **unrelated to the convenience of the parties**" warrant a denial of the motion to transfer venue. *Atl. Marine Constr. Co., Inc.*, 571 U.S. at 62 (emphasis added). "[W]hatever inconvenience the parties would suffer by being forced to litigate in the contractual forum as they agreed to do was clearly foreseeable at the time of contracting." *Id.* at 64 (internal quotations and parentheses omitted). "In all but the most unusual cases, therefore, the interest of justice is served by holding parties to their bargain." *Id.* at 66 (internal quotations omitted).

When the parties' contract contains a valid forum selection clause, the traditional analysis under § 1404(a) changes in three ways. *Id.* at 63-65. First, the plaintiff's choice of forum merits no weight and, instead, it is the plaintiff's burden

to establish transfer to the agreed forum is unwarranted. *Id.* Second, the "private-interest" factors, such as the ease of access to evidence and witnesses, cannot be considered, and the analysis considers only public interest factors like "the administrative difficulties flowing from court congestion; the local interest in having localized controversies decided at home; [and] the interest in having the trial of a diversity case in a forum that is at home with the law." *Id.* at 62 n.6, 64. Finally, "[t]he court in the contractually selected venue should not apply the law of the transferor venue to which the parties waived their right." *Id.* at 65-66.

III.
ANALYSIS

A. The Policy's forum selection clause is enforceable and valid.

First of all, the parties' forum selection clause is enforceable under federal law. The forum selection clause is presumptively valid, and a strong showing from Plaintiff that enforcing the clause would be unfair or unreasonable under the circumstances is required. *Krenkel*, 579 F.3d at 1281. A clause is only unenforceable when: (1) its formation was induced by fraud or overreaching; (2) the plaintiff would be deprived of its day in court because of inconvenience or unfairness; (3) the chosen law would deprive the plaintiff of a remedy; or (4) enforcement of the clause would contravene public policy. *Id.*

None of these circumstances apply here. Far from being induced by fraud or overreaching, the clause is part of a full-page endorsement in the Policy with a title

that reads "**LEGAL ACTION CONDITIONS ENDORSEMENT**" in bold, all-caps typeface. Plaintiff obviously will not be deprived of his day in court because this Court can transfer the existing action to another federal district court within the United States. Plaintiff will not be deprived of a remedy under the chosen law—the law of the State of New York—because the Southern District of New York can enforce the Policy under New York law. *See M/S Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1, 18 (1972) ("[I]t should be incumbent on the party seeking to escape his contract to show that trial in the contractual forum will be so gravely difficult and inconvenient that he will for all practical purposes be deprived of his day in court"). Finally, enforcement of the clause to adjudicate the parties' contractual rights would not contravene public policy because parties to a contract may freely select a forum to resolve their contractual disputes. *See, e.g., Brooke Group Ltd. v. JCH Syndicate 488*, 663 N.E.2d 635, 637 (N.Y. 1996).

Although Mt. Hawley denies that Florida law applies to this dispute, forum selection clauses are also presumptively valid under Florida law. *See McGregor v. VP Records*, 17-CV-60231, 2017 WL 2833444, at *3 (S.D. Fla. June 30, 2017) (recognizing prima facie validity of forum selection clauses). The First District Court of Appeals has twice held that New York forum selection clauses in environmental insurance policies are not contrary to Florida public policy. *See Land O'Sun Mgmt. Corp. v. Commerce & Indus. Ins. Co.*, 961 So. 2d 1078, 1080 (Fla. 1st Dist. Ct. App.

2007); *Illinois Union Ins. Co. v. Co-Free, Inc.*, 128 So. 3d 820, 823 (Fla. 1st Dist. Ct. App. 2013).

B. The Policy's forum selection clause is mandatory and covers Plaintiff's claims.

As the Eleventh Circuit previously held, "when the laws of the competing states are substantially similar, the court should avoid the conflicts question and simply decide the issue under the law of each of the interested states." *Fioretti v. Massachusetts Gen. Life Ins. Co.*, 53 F.3d 1228, 1234 (11th Cir. 1995). Here, the laws of the two jurisdictions do not conflict with respect to the enforceability of the forum selection clause. Both the parties' contractually selected law (New York law) and the forum state's law (Florida law) is the same.[1] As discussed below, both states' laws interpret the forum selection clause to be mandatory and require transfer to New York such that no choice-of-law analysis is necessary.

The clause is mandatory. The Policy's forum selection clause uses the word "shall" to establish New York as the mandatory forum for Plaintiff to commence legal action: "Any litigation arising out of or relating to this Policy shall be brought only in the state or federal courts of New York." (Policy, **Exhibit A** at 32 (emphasis added)). Under New York law, forum selection clauses that use the phrases "shall be brought" or "shall be determined by" are mandatory, not permissive. S*ee e.g.,*

[1] Mt. Hawley avers that, should the Court identify a conflict between the laws of New York and Florida (which is denied), New York law applies.

Indem. Ins. Co. of N. Am. v. K–Line Am., Inc., No. 1:06-cv-615, 2008 WL 4922327, *7 (S.D.N.Y. Feb. 27, 2008) (forum selection clause providing that any dispute "shall be brought before the Tokyo District Court" was mandatory, not permissive); *Indem. Ins. Co. of N. Am. v. M/V Easline Tianjin*, Nos. 1:07-cv-959, 1:07-cv-6008, 2008 WL 418910 (S.D.N.Y. Feb. 14, 2008) (forum selection clause providing that any dispute "shall be determined by the court in the People's Republic of China" was mandatory, not permissive). Even under Florida law, the applicability of which Mt. Hawley denies, "shall" is a mandatory term, and pairing the term "shall" with a specific venue results in a mandatory forum selection clause. *See Global Satellite Comm. Co. v. Starmhill U.K. Ltd.*, 378 F.3d 1269, 1272 (11th Cir. 2004) ("The contract provision, 'Venue shall be in Broward County,' because it uses the imperative 'shall,' is most reasonably interpreted to mandate venue in Broward County, and Broward County alone."). As noted above, Judge Singhal of the Southern District of Florida granted Mt. Hawley's Motion to Transfer Venue to the Southern District of New York based on an identical New York forum selection clause and found that the clause was mandatory because it used the word "shall." *See New Hope Missionary Baptist Church*, No. 0:21-cv-61335-AHS, Doc. 11, at 4-5 (**Exhibit CC**) ("Here, the forum-selection clause states '**[a]ny litigation** commenced by any Named Insured, any additional insured, or any beneficiary hereunder against the Company **shall be initiated in New York**. [emphasis added

by the court]. Based on a plain reading of the forum-selection clause agreed to by the parties, the provision is mandatory.") (quoting *Starmhill U.K. Ltd.*, 378 F.3d at 1272)). Thus, the Policy's forum selection clause at issue is clearly mandatory.

Plaintiff's claims against Defendant are clearly within the clause's scope. Both New York and Florida law give effect to the plain meaning of contractual forum selection clauses. *See Fasano v. Guoqing Li*, 482 F. Supp. 3d 158, 168 (S.D.N.Y. 2020) ("Under New York law, the words and phrases used by the parties in a forum-selection clause 'must, as in all cases involving contract interpretation, be given their plain meaning.'") (citing *ICICI Bank Ltd. v. Essar Glob. Fund Ltd.*, 565 B.R. 241, 252 (S.D.N.Y. 2017) (quoting *Brooke Grp. Ltd. v. JCH Syndicate 488*, 87 N.Y.2d 530, 534, 640 N.Y.S.2d 479, 663 N.E.2d 635 (1996)); *Slater*, 634 F.3d at 1330 ("Under general contract principles, the plain meaning of a contract's language governs its interpretation."), citing *Belize Telecom, Ltd. v. Belize*, 528 F.3d 1298, 1307 & n. 11 (11th Cir. 2008). Here, Plaintiff's claims asserted against Mt. Hawley fall squarely within the plain wording of the Policy's forum selection clause. The clause reads: "Any litigation arising out of or relating to this Policy shall be brought only in the state or federal courts of New York." This litigation was commenced by Plaintiff, the "Insured" under the Policy, against Mt. Hawley, the "Company" under the Policy, to recover money purportedly due under the Policy. Therefore, the Policy's forum selection clause plainly applies.

C. The forum selection clause should be enforced under 28 U.S.C. § 1404(a).

Having established that the Policy's forum selection clause encompasses all of Plaintiff's claims against Mt. Hawley and is enforceable, valid, and mandatory, the Court can conduct a modified analysis of public interest factors under § 1404(a) to determine whether "extraordinary circumstances unrelated to the convenience of the parties" exist to warrant denial of the § 1404(a) motion to transfer venue. *Atl. Marine Constr. Co., Inc.*, 571 U.S. at 62 (emphasis added). Plaintiff's choice of forum merits no weight, and the analysis considers only public interest factors—*i.e.*, "the administrative difficulties flowing from court congestion; the local interest in having localized controversies decided at home; [and] the interest in having the trial of a diversity case in a forum that is at home with the law." *Id.* at 62 n.6, 64. Only the most unusual cases warrant denial of a § 1404(a) motion when there is a valid forum selection clause. *Id.* at 66. In line with the Supreme Court's holding in *Atlantic Marine*, parties may reasonably designate a neutral forum with no apparent connection to the dispute, and mere inconvenience does not invalidate the parties' choice. *Lerner v. Windstream Commc'ns, Inc.*, No. 2:15-cv-4287, 2016 WL 2855807, at *3 (C.D. Cal. May 16, 2016).

Here, the public interest factors weigh in favor of transfer to the Southern District of New York. First, the parties have contracted to use New York law, which favors the Southern District of New York. *See Summerwind W. Condo. Owners*

Assoc., Inc., No. 3:21-cv-1040, at *9 (attached as **Exhibit WWW**); *Reagan v. Encompass Solutions, Inc.*, No. 1:20-cv-2305, 2020 WL 7352665, at *4 (N.D. Ohio Dec. 14, 2020) ("Rather, plaintiff argues that Virginia has no connection to the dispute, noting that defendant's principal place of business is in North Carolina. However, the Agreement stipulates that Virginia law governs and plaintiff has offered no reason why this choice of law provision should not be enforced. Therefore, the public-interest factors actually weigh in favor of transfer to a court more familiar with Virginia law."); *Union Elec. Co*., 2014 WL 4450467, at *6 ("Finally, the court considers the public interest in having a diversity case tried in a forum that is at home with the law. The parties agreed that New York law would apply to their dispute, which weighs in favor of transfer to New York."); *Cass v. Balboa Capital Corp*., No. 6:13-cv-483, 2015 WL 1428076, at *4 (E.D. Okla. Mar. 27, 2015) (discussing public interest factors although the forum selection clause at issue was permissive and holding that "[a]pplying California law in Oklahoma could create a number of difficulties, and the appropriateness of trying the case in a forum familiar with the governing law outweighs the arguments related to the burden of jury duty and local interest."); *see also Jenkins*, 2021 WL 807612, at *9 (granting defendant insurer's motion to transfer to the District of Utah consistent with the policy's forum selection clause: "Although Plaintiffs have not addressed any of the public interest factors enumerated in Atlantic, the Court notes that the consideration

of having matters decided in a forum that is at home with the law is significant where, as here, the issue preclusion argument turns on an unsettled area of Utah law").

Second, "all states have an equal interest in ensuring that parties abide by their contractual agreements." *Union Elec. Co.*, 2014 WL 4450467, at *6 (upholding a mandatory forum selection clause in an insurance policy covering a Missouri hydroelectric plant and transferring the action to the Southern District of New York because holding the parties to their agreed-upon forum would not violate Missouri public policy); *see also Bremen*, 407 U.S. at 9 ("The expansion of American business and industry will hardly be encouraged if, notwithstanding solemn contracts, we insist on a parochial concept that all disputes must be resolved under our laws and in our courts.").

Third, courts nationwide have routinely enforced forum selection clauses in insurance contracts, even where the chosen forum has little to no connection to the parties' dispute. *See e.g.*, *Al Copeland Invs., L.L.C.*, 884 F.3d at 542 (affirming the Eastern District of Louisiana's dismissal of the insured's claims related to its insurance policy, which covered its commercial property in Louisiana, because the policy contained a forum selection clause requiring litigation in New York state court); *Jenkins*, 2021 WL 807612, at *9 (granting defendant insurer's motion to transfer to the District of Utah consistent with the policy's forum selection clause even though the professional services covered by the professional liability policy

were performed in Georgia); *Union Elec. Co.*, 2014 WL 4450467, at *6; *Berkley Reg'l Ins. Co.,* 2013 WL 6020785, at *5 (upholding mandatory New York forum selection clause in indemnity agreement even though neither the parties nor the dispute had any connection to New York); *AGL Indus., Inc.*, 2018 WL 3510387, at *5 (transferring to Nebraska consistent with the policy's forum selection clause although the only Nebraska connection was defendants' principal offices' location).

Of course, the same result is appropriate even outside of the insurance context, where courts routinely enforce mandatory forum selection clauses regardless of the connection between the parties' dispute and the selected forum. For example, in employment disputes, courts uphold mandatory forum selection clauses in employment agreements even if the employee does not reside in the chosen forum and all relevant events took place outside of the chosen forum. *See e.g.*, *Billings v. Ryze Claim Solutions, LLC*, No. 1:17-cv-1600, 2018 WL 2762117, at *8 (E.D. Cal. June 8, 2018); *see also Reagan*, 2020 WL 7352665, at *4; *Hynan v. XPO Logistics Freight, Inc.*, No. 1:18-cv-2816, 2019 WL 1598156, at *4 (S.D. Ind. Apr. 15, 2019); *Shingler v. Smile Care, LLC*, No. 1:14-cv-725, 2014 WL 3543800, at *3 (N.D. Ohio July 17, 2014) (transferring case to the Northern District of Texas even though there was no connection to Texas other than the defendant, which was not a citizen of Texas, maintaining corporate offices there).

Likewise, in contractual disputes generally, courts uphold and enforce mandatory forum selection clauses even if the execution and performance of the contract have little to no connection to the chosen forum. Applicable decisions demonstrating this proposition are too numerous to cite here, but the following provides a representative sample: *Maxima Int'l, S.A. v. Interocean Lines, Inc.*, 16-CV-21233, 2017 WL 346826, at *3 (S.D. Fla. Jan. 24, 2017) (Florida forum selection clause upheld, and motion to transfer to Peru denied, despite only connection to Florida being that both parties, as foreign companies, did business in Florida); *Contraves Inc. v. McDonnell Douglas Corp.*, 889 F. Supp. 470, 472 (M. D. Fla. 1995) (transferring to the Southern District of New York in line with forum selection clause despite there being no connection to New York); *Counter Active, Inc. v. Tacom, L.P.*, 2007 WL 9723866 (M.D. Fla. June 25, 2007) (transferring to the District of Minnesota in line with forum selection clause despite only minimal connections to Minnesota); *Bright Harvest Sweet Potato Co., Inc. v. H.J. Heinz Co., L.P.*, 2:12-CV-02155-PKH, 2013 WL 2458685, at *7 (W.D. Ark. June 6, 2013) (transferring to the parties' chosen forum in Idaho despite the only connection to Idaho being defendant's unrelated business dealings); *First Bank & Tr. v. Complete Communications, Inc.*, CIV. 18-4123, 2019 WL 11031285, at *3 (D.S.D. Aug. 20, 2019) (transferring to the Western District of Washington per the parties' agreement despite the dispute having no connection to Washington and requiring application of

South Dakota law); *Performance Chevrolet, Inc. v. ADP Dealer Services, Inc.*, 2:14-CV-02738-TLN-AC, 2015 WL 13157998, at *2 (E.D. Cal. June 22, 2015) (enforcing forum selection clause and transferring action to the District of New Jersey despite argument that there was "no connection to New Jersey"); *Truinject Corp. v. Nestle Skin Health, S.A.*, 818CV01851JLSJDE, 2019 WL 1449641, at *7 (C.D. Cal. Mar. 28, 2019) (upholding the forum selection clause and granting motion to transfer to the District of Delaware despite the only connection to Delaware being the plaintiffs' state of incorporation); *Davis v. Valsamis, Inc.*, 181 F. Supp. 3d 420, 429 (S.D. Tex. 2016) (granting motion to transfer venue to the Southern District of Florida even though "Florida, other than being the preferred venue of cruise lines, has no connection to this matter"); *Atl. Container Line AB v. Volvo Car Corp.*, 14-CV-1811 CM, 2014 WL 4730152, at *6 (S.D.N.Y. Sept. 22, 2014) (enforcing the parties' New York forum selection clause and refusing dismissal even though none of the parties were citizens of New York, only one defendant was registered to do business there, and the case involved a fire in Germany aboard a Swedish ship with cargo manufactured and loaded in Sweden that was evidently bound for New Jersey); *Saeco Vending, S.P.A. v. Seaga Mfg., Inc.*, 15-CV-3280 (AJN), 2016 WL 1659132, at *5 (S.D.N.Y. Jan. 28, 2016) (denying a motion to dismiss on *forum non conveniens* grounds because the parties' forum selection clause was enforceable

even though there was no connection to New York because "a forum selection clause is a sufficient connection by itself.").

Even in cases where, unlike here, the "local interest" factor is the only public interest factor considered, it is generally insufficient for denying enforcement of a valid forum selection clause. *See AM-Rail Constr., Inc. v. A&K R.R. Materials, Inc.*, No. 1:16-cv-520, 2017 WL 414382, at *6 (M.D.N.C. Jan. 31, 2017) ("AM–Rail's argument does not rise to the level of an extraordinary circumstance that would bar transfer under the forum-selection clause."); *O'keeffe's Inc. v. Access Info. Techs. Inc.*, No. 3:15-cv-3115, 2015 WL 6089418, at *3 (N.D. Cal. Oct. 16, 2015) (enforcing forum-selection clause and transferring case after concluding, among other things, that the local interest factor generally will not "outweigh the controlling weight of the forum-selection clause"); *Brown v. Federated Capital Corp.*, 991 F. Supp. 2d 857, 863-64 (S.D. Tex. 2014) (enforcing forum selection clause and transferring case after concluding, among other things, that plaintiff's argument that the contractually agreed upon forum had no local interest in the case was not a circumstance that rose to the level of "most unusual" or "extraordinary").

In this case, the public-interest analysis reveals multiple factors that weigh strongly in favor of the Southern District of New York. New York, like every other state, has a strong interest in holding parties to their contract and enforcing a valid forum selection clause. *See Union Elec. Co.*, 2014 WL 4450467, at *6 ("All states

have an equal interest in ensuring that parties abide by their contractual agreements."). Additionally, the parties have agreed that New York law will govern their dispute, and New York courts are more familiar with New York law. *See id.* ("The parties agreed that New York law would apply to their dispute, which weighs in favor of transfer to New York."). Thus, the forum selection that Plaintiff and Mt. Hawley agreed upon in the Policy is properly enforced, and this lawsuit should be transferred to the U.S. District Court for the Southern District of New York.

IV.
CONCLUSION

For the reasons set forth above, Defendant Mt. Hawley Insurance Company respectfully requests that the Court follow the overwhelming body of law cited herein, grant this Motion, and transfer this action to the U.S. District Court for the Southern District of New York.

Respectfully submitted,

/s/ Marcus G. Mahfood

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ATTORNEYS FOR MT. HAWLEY INSURANCE COMPANY

CERTIFICATE OF CONFERENCE

On November 25, 2025, counsel for Defendant Mt. Hawley conferred with counsel for Plaintiff regarding the foregoing motion, and Plaintiff is opposed to the relief sought herein.

/s/ Marcus G. Mahfood
Marcus G. Mahfood

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing instrument is being served upon all counsel of record in accordance with the Federal Rules of Civil Procedure, on this 26th day of November, 2025.

/s/ Marcus G. Mahfood
Marcus G. Mahfood