

IN THE COUNTY COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NUMBER:
DIV 71

Plaintiff(s),
vs.

Defendant(s).
_____ /

**UNIFORM ORDER REGARDING SETTING CASE FOR JURY TRIAL,
PRE-TRIAL CONFERENCE AND REQUIRING PRETRIAL
MATTERS TO BE COMPLETED TOGETHER WITH MEDIATION**

It appearing that this case is at issue and can be set for trial, it is **ORDERED** as follows:

1. **FAMILIARITY WITH THIS ORDER** Counsel and pro se (unrepresented) parties shall read this order, be familiar with its contents and comply with its requirements.
2. **TRIAL DATE** This jury trial is set on the Trial docket to begin _____. The Trial will be held in a Courtroom (to be announced) beginning at 9:00 a.m., before the Honorable David P Johnson, Orange County Courthouse, 425 N. Orange Avenue, Orlando, Florida 32801.
3. **PRE-TRIAL CONFERENCE** Counsel who will try the case shall attend a pre-trial conference on _____ **at 9:00 a.m. in HEARING ROOM 370** at the Orange County Courthouse, 425 North Orange Avenue, Orlando, Florida 32801. All appearances shall be in person.

MEDIATION

4. **MEDIATION SHALL PROCEED AND BE GOVERNED, AS FOLLOWS:**
 - (A) The Plaintiff's attorney is appointed as lead attorney to coordinate mediation on a mutually agreeable date, time, and place. Said mediation shall be held within 90 days from the date of this order, unless the parties previously attended a mediation that impassed.
 - (B) Plaintiff's counsel shall notify, in writing, all parties, the name of the mediator chosen and the date and time agreed for mediation.
 - (C) The appearance of all counsel and clients with settlement authority in person in mandatory. One of the parties present shall have full settlement authority.

(D) No later than (10) days before the scheduled mediation, all parties shall present to the mediator a brief, written summary of the case containing a list of all issues as to be addressed.

(E) All discussions, representations and statements made at the mediation shall be off the record and privileged. Nothing related to the mediation shall be admissible at trial.

(F) The mediator shall be compensated at his/her regular and customary hourly rate. Mediation fees shall be equally divided and by the parties.

(G) The mediator has no power to compel or enforce settlement agreements. If a settlement agreement is reached in the case, it shall be the responsibility of the parties to reduce the agreement to writing and enter it on the record.

5. **REQUIREMENTS PRIOR TO PRE-TRIAL CONFERENCE**

(A) **EXCHANGE OF WITNESS LISTS AND EVIDENCE SCHEDULES** Not later than forty-five (45) days before the pre-trial conference, attorneys and pro se parties shall serve upon each other the following:

(B) **LIST OF ALL NON-EXPERT WITNESSES** (including known impeachment and rebuttal witnesses) which the party might call at trial. The list shall contain the name, address and telephone number of the witness and whether the witness is a liability or damage witness. Additionally, expert witnesses shall be designated as such.

(C) **SCHEDULE OF ALL EXHIBITS** which a party may offer at trial numbered sequentially. The schedules will include all depositions to be offered in evidence at trial.

(D) **MEETING OF ATTORNEYS, AND PRO SE PARTIES** No later than **twenty (20) working days prior to the pre-trial conference**, counsel who will try the case, and pro se parties, if any, shall meet together. Attendance at this meeting is mandatory. Plaintiff or Plaintiff's counsel shall arrange a mutually agreeable time, date and place for this meeting. In the event that the Plaintiff is pro-se and the Defendant is represented by an attorney, counsel for the defense shall be responsible for coordinating and noticing this meeting.

At the meeting the parties shall:

1. Discuss and attempt to settle the case.
2. Produce, examine and initial every evidentiary exhibit intended to be offered at trial; agree on those which can be admitted as joint exhibits, those which can be admitted without objection, and identify those to which objection will be made and the grounds of each objection, and note this on a separate copy of each party's exhibit schedule. Objections not reserved or grounds not noted on such separate schedule will be deemed waived at trial. The annotated separate copies of the schedules will be attached to and made a part of the joint pretrial statement

required in paragraph 5 (D) of this order.

3. Review the witness lists and in good faith note on a separate copy which witnesses and depositions will actually be used at trial. The annotated separate copies of the witness list will be attached to the joint pretrial statement required in paragraph 5 (D) of this order.

4. Discuss and stipulate as to those facts which will require no proof at trial.

5. Discuss, clarify and frame all factual issues of fact to be tried.

6. Identify all issues of law, procedure or evidence to be decided by the Court prior to or during trial.

7. Agree upon and draft a concise but complete statement of the case to be read by the judge at the beginning of voir dire. Discuss the proposed jury instructions (preliminary through closing) and verdict forms. Discuss whether you want the Court to instruct the jury on the law at the beginning of the case and before final arguments. For Standard Jury Instructions – Civil Cases go to www.floridasupremecourt.org/civ_jury_instructions.shtml.

8. Discuss the need for additional peremptory strikes. The Court allows three (3) peremptory strikes per side absent a request for more which must be supported by good cause.

9. Discuss and attempt to agree upon any other matters which will lead to a more orderly and expeditious trial, e.g., copies in lieu of originals, witnesses out of turn, which portions and how depositions will be presented, how collateral set-off will be handled, etc.

(E) LIMITATIONS ON HEARINGS All hearings related to discovery or trial matters must be filed and heard **prior to the pre-trial conference**. Motions in Limine may not be scheduled for a hearing unless they contain a certification of a good faith attempt to resolve the matter without court action. Notices of hearing on Motions in Limine must identify the specific issues which remain in controversy after counsel has conferred. **Motions in Limine must be filed prior to pre-trial**, but may be set to be heard after the pre-trial conference, however no later than four (4) days prior to the first day of the trial docket. **NO HEARINGS DIRECTED TOWARDS MATTERS INVOLVING THE TRIAL WILL BE HEARD DURING THE ACTUAL TRIAL PERIOD**, absent unanticipated events occurring.

(F) JOINT PRETRIAL STATEMENT Following the meeting of the Plaintiff or plaintiff's attorney (or defendant's attorney, if plaintiff is pro se) shall prepare and present to opposing counsel and pro se parties a proposed joint written pretrial statement. **The statement shall be signed by all attorneys and pro se parties** and the original and one copy delivered to the judge **no later than the pre-trial conference**. To the extent the parties differ as to how portions of the statement should read, the differing views should be set forth in the statement.

The pretrial statement will contain the following items in the following format:

1. A statement of the case to be read to the jury at the beginning of voir dire.
2. A statement of facts which are admitted and may be read in evidence at trial as a stipulation of counsel.
3. Issues of fact to be tried (framed as they would be set forth in an interrogatory verdict).
4. Issues of law, procedure or evidence to be determined by the Court prior to or during trial.
5. The annotated copy of each party's witness list will be attached.
6. The annotated copy of each party's schedule of exhibits showing objections and grounds will be attached.
7. A statement as to any request for additional peremptory strikes and the reasons for that request.
8. A current estimate of the number of days required for trial.
9. Any other matters agreed to by counsel or which need to be addressed by the Court at the pre-trial conference.

7. **DISCOVERY CUT-OFF DEADLINE** All discovery shall close on the day prior to the Pre-Trial Conference unless extended by Court order for good cause shown.

8. **MOTIONS CUT-OFF DEADLINE**

(A) All motions for summary judgment or judgment on the pleadings must be filed and scheduled for hearing to be held 20 days prior to the pre-trial conference.

(B) All motions in limine or to exclude witnesses or evidence or other motions directed to the conduct of the trial for which grounds then exist must be filed and copies delivered to opposing counsel prior to the case management conference. Motions in Limine will be heard at the case management conference.

9. **EXPERT WITNESSES; DISCLOSURE; DEADLINES; TESTS EXAMINATIONS AND EXPERIMENTS; LIMITATION ON NUMBER AT TRIAL**

(A) **Not later than 90 days before the date of the pre-trial conference**, plaintiff(s) shall disclose all expert witnesses (including treating physicians) that in good faith plaintiff(s) actually intends to call at trial.

(B) **Not later than 60 days before the date of the pre-trial conference**, defendant(s) shall disclose all expert witnesses (including treating physicians) that in good faith defendant(s) actually intends to call at trial.

(C) Any additional experts will only be permitted to be listed upon stipulation or leave of court for good cause shown.

(D) Immediately following disclosure the parties will confer and agree upon a schedule for taking the experts' depositions. Experts will be made available for deposition by the party retaining them without necessity of subpoena.

(E) The depositions of all experts should be completed prior to mediation and must be completed prior to the pre-trial conference.

(F) All out-of-court testing, experiments or physical or mental examinations will be completed by an expert prior to the expert's deposition unless leave of Court is obtained for completion after deposition.

(G) As used herein, "disclosure" means furnishing in writing (i) the expert's name, business address and telephone number, (ii) his or her curriculum vitae or qualifications, (iii) his or her medical specialty or field of expertise, (iv) a statement of the specific subjects upon which the expert will testify and offer opinions and (v) the party or parties against whom the expert will be called to testify.

(H) The parties may supersede sub-paragraph A through G by filing written stipulation or move the Court to modify it upon good cause shown.

(I) The Court may limit the number of experts at trial.

10. **TRIAL BRIEFS** Trial briefs are optional but if one is to be filed, the original should be filed and chambers copy delivered **not later than three (3) working days before trial** is to commence. Highlighted copies of primary legal authorities cited must accompany the chambers copy and opposing party's copy.

11. **NOTIFICATION OF SETTLEMENT** The parties will notify the Judge's judicial assistant immediately by telephone upon the case being settled.

12. **JURY INSTRUCTIONS** Unless otherwise directed by the Judge, the parties will exchange proposed jury instructions and verdict forms not later than three (3) days before PTC is to commence. If not, standard Jury Instructions will be used. At Pre-Trial Conference, plaintiff's counsel will hand to the judge a set of those instructions (and verdict forms) which are in dispute.

13. **INCONSISTENCY WITH CASE MANAGEMENT ORDER** If there are any provisions of this order which are inconsistent with a case management order entered in this case, this Order will govern.

14. **MODIFICATION OF ORDER FOR GOOD CAUSE** The provisions of this order, including any time limits, and the joint pretrial statement, witness lists and evidence schedules attached to it may be modified only by Court order based upon motion showing good cause.

15. **SANCTIONS** Unexcused failure of counsel or unrepresented party to attend the meeting of attorneys required in paragraph 6 (A), the case management conference or trial or to comply with the requirements of this order will subject offending counsel or party to appropriate sanctions, which may include contempt, dismissal, default, striking of pleadings, exclusion of evidence, assessment fees or costs, and/or other sanctions.

16. **FOR SCHEDULING PURPOSE ONLY** See attached Summary of Deadlines.

DONE AND ORDERED in chambers this ____ day of _____, 2017 at Orlando,
Florida.

David P Johnson
County Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy was delivered to the below parties on this ____ day of _____, 2017.

Leslie Salas-Fandino, Judicial Assistant to Judge David P Johnson

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 the ADA Coordinator, Human Resources, Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, Florida, (407) 836-2303, at least 7 days before your scheduled court appearance, or immediately upon receiving this

notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.