

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,  
IN AND FOR LEON COUNTY, FLORIDA

Plaintiff,

CASE NO.:

v.

Defendant.

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**ORDER SETTING JURY TRIAL**

**I. TRIAL, JURY SELECTION AND PRETRIAL DATES**

This case is set for a jury trial during the trial period beginning the week of \*. Trials for this period are stacked with jury selection for all cases on Monday, \* and a pretrial conference on \* at \* in Chambers. \* days have been reserved for trial, including jury selection. The parties indicate no scheduling conflicts with these dates.

In accordance with the Americans with Disabilities Act, persons needing special accommodation to participate in this proceeding should contact the Office of Court Administration no later than seven days prior to the proceeding at (850) 606-4401.

## II. DISCLOSURE OF WITNESSES AND DOCUMENTS

No later than ninety days before jury selection for the Plaintiff(s) and seventy-five days before jury selection for Defendant(s), the parties shall file with the Clerk of the Court and serve on all opposing parties:

(a) A complete list of all witnesses which may be called at trial, designating those witnesses to be called as experts, with the address and phone number, if known, and a brief summary of the expected testimony. For those witnesses designated as experts, the parties shall also state the area of expertise in which the witness will be tendered, the substance of opinions expected to be offered and a summary of the grounds for each. The disclosure of witnesses shall be in three categories:

- I. Category A - Witnesses that the parties, in good faith, intend to call at trial;
- II. Category B - Those witnesses which may or may not be called, depending upon what witnesses the opposing party calls or other unanticipated issues that are raised, etc.;
- III. Category C - Witnesses who the party does not intend to call at trial, but are listed as witnesses out of an abundance of caution because they have some knowledge of the facts or issues in dispute at trial.

The parties are expected to amend or supplement the witness list if a new witness becomes known or a witness listed in one category is more appropriately listed in another.

(b) A complete list of all documents which may be introduced at trial, with a sufficient description thereof to identify such document.

WITNESSES AND DOCUMENTS NOT IDENTIFIED IN THESE LISTS WILL NOT BE PERMITTED TO BE INTRODUCED OR TO TESTIFY AT TRIAL, EXCEPT BY ORDER OF THE COURT UPON A SHOWING OF GOOD CAUSE.

### **III. DISCOVERY CUT-OFF DATE**

All discovery must be completed no later than forty-five (45) days before jury selection. No discovery after this date will be allowed except by order of the Court for good cause and upon a showing of due diligence.

### **IV. MEDIATION**

This case is referred to mediation. A Party may be relieved of the obligation to participate in mediation only for good cause shown and by order of the court. The mediation shall be conducted according to Fla.R.Civ.P., Rules 1.700 through 1.730. Additionally, the mediation shall be governed by the following provisions of this order:

1. **Selection of Mediator**. The parties shall attempt to agree on a mediator. If the parties do not agree, the plaintiff(s) shall immediately advise the court and the court shall name a mediator.

2. **Conference**. The mediation conference shall begin no later than forty-five (45) days before jury selection. The parties are encouraged to cooperate on full disclosure of information necessary for effective mediation and to schedule mediation as soon as is reasonably practical in order to avoid the significant expenses involved in trial preparation.

3. **Attendance**. Each party shall be present at the mediation as well as the attorneys who will try the case. A corporate party must be represented at mediation by an agent with full authority to settle the case. If a party fails to attend the mediation, or

appears without settlement authority as required above, the court may impose sanctions against that party.

4. **Privilege.** All discussions, representations and statements made at the mediation conference shall be privileged as settlement negotiations and nothing related to the mediation shall be admitted at trial, or disclosed to the court, except that impasse has been reached.

5. **Mediation Report.** At the conclusion of the mediation, the mediator shall immediately send a report directly to the court, with copies to the parties.

#### **V. CONFERENCE OF THE PARTIES**

The parties shall meet thirty (30) days before jury selection for the following purposes:

1. To discuss the possibility of settlement.
2. To stipulate to as many facts and issues as possible.
3. To prepare a pretrial statement in accordance with Paragraph VI of this Order.
4. To examine all exhibits and documents proposed to be used at trial.
5. To discuss any anticipated legal issues which may arise during trial, including questions of liability and damages, the evidence and proof which either party proposes to present at trial and the law on which the parties will rely.
6. To consider and stipulate to all other matters which may expedite the trial.
7. Ten (10) days before the conference of the parties, the Plaintiff(s) shall submit to all parties a complete, comprehensive and integrated set of proposed jury instructions, together with proposed verdict form.

8. Five (5) days before the conference of the parties, the Defendant(s) shall submit to all parties written objections to the proposed jury instructions, if any, and proposed verdict form, together with any suggested alternative jury instructions.

9. The Plaintiff(s) shall take primary responsibility for preparing the pretrial statement and submitting it to the Court.

## VI. PRETRIAL STATEMENT

The pretrial statement shall be signed by all parties or their counsel and shall address each of the following in separate corresponding numbered paragraphs:

1. Statement of case to be read to jury venire (should be sufficient to allow potential jurors to determine if they have knowledge of the case).

2. List of any pending motions, indicating whether they are scheduled for a hearing and if so, when.

3. Number of peremptory challenges per party.

4. Estimated time for:

(a) Voir dire.

(b) Opening statements.

(c) Presentation of Plaintiff's case (based on average of 5-6 hours per day).

(d) Presentation of Defendant's case (based on average of 5-6 hours per day).

(e) Closing arguments.

(f) Total estimated length of trial.

5. Any scheduling problems or preferences.
6. The witnesses and exhibits each party may proffer at the trial, with a notation as to the nature of any objections thereto, and any agreements regarding limitation on the number of witnesses (e.g. experts, “before and after”, witnesses, etc.).
7. Alternate juror(s).
8. Any agreement as to accepting a five person verdict in the event one or more jurors become incapacitated.
9. Deposition testimony that will be proffered, and whether approved or objected to and, if objected to, the grounds therefore.
10. Visual aids which may be used in opening or closing, noting whether agreed to or objected to, and if objected to, the grounds therefore.
11. Whether either party requests a view of the scene.
12. Any request for judicial notice.
13. Any special audio or visual aids requested of the Court Administrator.
14. Any need for a translator, interpreter, or ADA accommodations.
15. Whether there are any requirements of the trial order that have not been complied with and if so, what and why?
16. A concise statement of those facts which are admitted and will require no proof at trial, together with any reservations directed to such admission.
17. A concise statement of those issues of law and fact which are in dispute.
18. Any other matters or issues for the Court’s attention.

## **VII. DOCUMENTS TO BE SUBMITTED**

No later than the Friday before the pretrial conference, the parties shall provide the Court with a copy of the following:

1. The pretrial statement referenced above in Paragraph VI.
2. A trial brief or memorandum with citations of authorities and arguments in support of their positions on all disputed issues of law.
3. A copy of any pending motions and written responses thereto.
4. An agreed upon integrated set of jury instructions and any proposed instructions on which there is disagreement.

## **VIII. PRETRIAL CONFERENCE**

The pretrial conference will be conducted for the purpose of allowing the Court to briefly review the status of the case, note and consider any scheduling problems or preferences, confirm that the directions in this Order have been complied with and that the Court is in possession of all requested documents, and to consider any procedural or other matters which may foster an efficient and orderly conduct of the trial. Normally, pending motions will not be heard at this time. Motions for Summary Judgment must be filed, scheduled and heard prior to pretrial.

Because decisions about the conduct of the trial may be made at this conference it is important that the parties be represented at the conference by someone with authority to resolve any matters relating to the case. It is the intention of the Court to

advise the parties as soon as possible after the pretrial conference of a tentative schedule for all cases set for the trial period.

#### **IX. PRETRIAL ORDER**

1. Upon the conclusion of the pretrial conference, if directed by the Court, all parties shall confer forthwith and prepare a pretrial order for the Court's approval. Plaintiffs will take the initiative in preparing such order. Such order will be submitted to the court for approval within two (2) days after the pretrial conference, unless otherwise ordered at the pretrial conference. The pretrial order shall incorporate and modify the pretrial statement in light of any additional agreements reached and any rulings made at the pretrial conference.

2. If a pretrial order is entered by the Court, the pleadings will be merged therein, and the pretrial order will control the course of the trial and may not be amended except by order of the court in the furtherance of justice.

#### **X. MISCELLANEOUS**

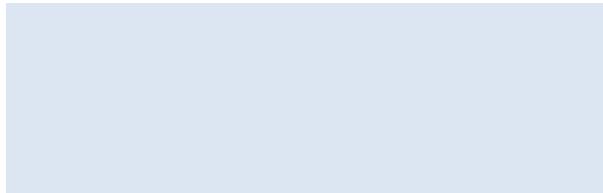
1. If appearance by phone is desired, the party shall coordinate the procedure with the Judicial Assistant prior to the scheduled hearing or conference.

2. If the case is settled, it is the responsibility of all parties to see that the Court is promptly advised. Failure to do so may result in sanctions including, but not limited to, payment of the costs of summoning the jury.

3. Except as specifically indicated otherwise, the term "party", as used in this Order refers to a litigant or counsel for a litigant.

**ALL PARTIES HAVE A DUTY TO ASSIST THE COURT IN SEEING THAT THE DIRECTIONS OF THIS ORDER ARE FOLLOWED. VIOLATIONS AND FAILURE TO COMPLY SHOULD BE PROMPTLY BROUGHT TO THE COURT'S ATTENTION FOR RESOLUTION. SHOULD A PARTY FAIL TO COMPLY WITH THE DIRECTIONS SET OUT IN THIS ORDER, THE COURT MAY IMPOSE SANCTIONS INCLUDING, BUT NOT LIMITED TO, JUDGMENT OF DISMISSAL, DEFAULT, OR OTHER APPROPRIATE JUDGMENT.**

**DONE AND ORDERED** in Tallahassee, Leon County, Florida, on this    day of \_\_\_\_\_, 2019.



RONALD W FLURY  
CIRCUIT JUDGE

Copies furnished to:

All Counsel of Record