IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT

IN AND FOR GADSDEN COUNTY, FLORIDA

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Plaintiff,

vs. CASE NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Defendant.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

**ORDER SETTING PRETRIAL CONFERENCE AND JURY TRIAL**

**IT IS ORDERED:** That all parties in the above-styled cause are directed to take notice:

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

This case is set for **PRETRIAL CONFERENCE**, in Gadsden County, Florida, Guy A. Race Judicial Complex (West Entrance), 13 North Monroe Street, Quincy, Florida 32351 on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **at \_\_\_\_\_\_\_\_\_. Eastern Time** **(1 hour reserved).**

**JURY SELECTION** for all cases will be held on **Friday, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.** Jury Selection **will start at 9:00 a.m. Eastern Time** in Courtroom 3 at the Guy A. Race Judicial Complex (West Entrance), 13 North Monroe Street, Quincy, Florida 32351.

This case is set for **JURY TRIAL** for the trial period beginning \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, commencing at 8:30 a.m.** Jury Trials for this period will be stacked. **Number of days for trial:** **three (\_\_\_\_).**

**If jury selection is completed prior to 3:00 p.m. the Court shall commence with the Trial to the extent practicable.**

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

**II. 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 within sixty (60) days of the date of this Order. If the Parties do not agree on a mediator within the time specified, the **PLAINTIFF(S)** shall within five (5) days advise the Court that the parties are unable to agree on a mediator and the Court shall name a mediator.
2. Mediation Date. The mediator will set a mediation conference as the parties may agree, but in no event later than the **ten (10) days prior to the Pretrial Conference** referred to in Section VII.
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.**

**III. DISCLOSURE OF WITNESSES AND DOCUMENTS**

Not later than **NINETY (90) DAYS for PLAINTIFF(S),** and **SEVENTY-FIVE (75) DAYS** **for DEFENDANT(S),** before the Pretrial Conference, the parties will file with the Clerk of the Court and serve on all opposing parties:

1. A complete **LIST OF ALL WITNESSES** who may be called at trial, designating those witnesses to be called as experts, the address of the witness, and a summary description of the expected testimony.
2. A complete **LIST OF ALL DOCUMENTS** which may be introduced at trial, with a sufficient description thereof to identify such document.

NO DOCUMENT OR WITNESS NOT CONTAINED IN THE ABOVE-REFERENCED LISTS WILL BE PERMITTED TO BE INTRODUCED OR TO TESTIFY AT THE TIME OF TRIAL, EXCEPT BY ORDER OF THE COURT AFTER SHOWING OF GOOD CAUSE.

**IV. DISCOVERY CUT-OFF DATE**

**ALL DISCOVERY,** including depositions, **MUST BE COMPLETED PRIOR TO THE CONFERENCE OF THE PARTIES** set forth in Section III. Further discovery and depositions, up to the date of the Pretrial Conference, shall be allowed only by order of the Court for good cause shown, or by written stipulation of counsel. AFTER THE PRETRIAL CONFERENCE, NO DISCOVERY OR DEPOSITIONS WILL BE ALLOWED UNLESS BY ORDER OF THE COURT.

**V. CONFERENCE OF THE PARTIES**

The parties shall meet not later than **THIRTY (30) DAYS** prior to the PretrialConference for the following:

1. To stipulate to as many facts and issues as possible;
2. To exchange final witness lists;
3. To examine all exhibits proposed to be used at trial;
4. To disclose and discuss all deposition testimony expected to be read or shown by video at trial.
5. To discuss and agree on substantive jury instructions, the verdict form, and the description of the case to be read to the jury;
6. To resolve by agreement as many pending motions in limine as possible;
7. To prepare the pretrial stipulation in accordance with Paragraph VI. of this Order.

**PLAINTIFF SHALL INITIATE ARRANGEMENTS FOR THE CONFERENCE OF THE PARTIES.** However, **ALL PARTIES** in this case are charged with the duty of meeting in such conference and of complying with the schedule as set forth in this Order. **If the schedule is not kept by any party, it is the duty of other parties to insist on compliance, failing to succeed, to advise the Court by motion seeking sanctions, against any party failing or refusing to meet.**

**VI. PRETRIAL STIPULATION**

The Pretrial Stipulation shall contain the following:

1. The description of the case that will be read to the jury. The parties will confer and agree on the wording.
2. Stipulations of the parties and any admissions of a party.
3. Plaintiff’s witness list.
4. Defendant’s objections to plaintiff’s witnesses.
5. Plaintiff’s exhibit list.
6. Defendant’s objections to plaintiff’s exhibits.
7. Defendant’s witness list.
8. Plaintiff’s objections to defendant’s witnesses.
9. Defendant’s exhibit list.
10. Plaintiff’s objections to plaintiff’s exhibits
11. Plaintiff’s deposition testimony designations.
12. Defendant’s objections to plaintiff’s deposition testimony.
13. Defendant’s deposition testimony designations.
14. Plaintiff’s objections to plaintiff’s deposition testimony.
15. Whether any party will be requesting that the Court take judicial notice of an item to be entered into evidence at trial, a description of the item, and the basis for the notice.
16. A final, agreed set of proposed substantive jury instructions (sections 400 and 500 of the standard civil jury instructions covering the claims, defenses, and damages).
17. A list of all motions or other matters which require action by the Court;
18. The signature of counsel for all parties.

**VII. DOCUMENTS TO BE SUBMITTED**

No later than **FIVE (5) DAYS PRIOR TO THE PRETRIAL CONFERENCE** the parties shall file, with courtesy paper copies delivered to the Court:

1. The **PRETRIAL STIPULATION** referenced above in Paragraph VI.
2. **MOTIONS IN LIMINE** that have not been resolved.

**VIII. CONDUCT OF THE PRETRIAL CONFERENCE**

THE ATTORNEYS WHO WILL CONDUCT THE TRIAL, AND ALL PARTIES UNREPRESENTED BY COUNSEL ARE REQUIRED TO BE PRESENT FOR THE PRETRIAL CONFERENCE.

The primary purpose of the pretrial conference is to present to the Court the parties’ objections that have not been resolved through the direct, good faith efforts of counsel. The Court also will review the **PRETRIAL STIPULATION** and rule on any **MOTIONS IN LIMINE** that were unable to be resolved with due diligence prior to the hearing. Motions other than motions in limine **will not be heard**.

**IX. PRETRIAL ORDER**

Upon the conclusion of the Pretrial Conference, all parties shall confer forthwith and prepare a Pretrial Order for the Court’s approval. **PLAINTIFF** will take the initiative in preparing such Order. Such Order will be submitted to the Court for approval within **THREE (3) DAYS** after the Pretrial Conference, unless otherwise ordered at the Pretrial Conference.

The Pretrial Order shall incorporate and modify the Pretrial Stipulation in light of any additional agreements reached and any rulings made at the Pretrial Conference.

**THE PLAINTIFF WILL SEND TO THE JUDICIAL ASSISTANT VIA EMAIL IN MS WORD FORMAT A CLEAN COPY OF THE FINAL SUBSTANTIVE JURY INSTRUCTIONS AND VERDICT FORM, AS DETERMINED AT THE PRETRIAL CONFERENCE, ALSO WITHIN THREE (3) DAYS AFTER THE PRETRIAL CONFERENCE.**

After the 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. TRIAL**

Each party will be entitled to three peremptory challenges of jurors, but when the number of parties on opposite sides is unequal, the opposing parties are entitled to the same aggregate number of peremptory challenges to be determined based on three peremptory challenges to each party on the side with the greater number of parties.

If alternate jurors are called, each party will be entitled to one peremptory challenge in the selection of the alternate juror or jurors, but when the number of parties on opposite sides is unequal, the opposing parties are entitled to the same aggregate number of peremptory challenges to be determined based on one peremptory challenge to each party on the side with the greater number of parties. This additional peremptory challenge may be used only against the alternate jurors. Peremptory challenges described above must not be used against the alternate jurors.

**XI. NEWLY DISCOVERED EVIDENCE OR WITNESS**

If new evidence or witnesses are discovered after the Pretrial Conference, the party desiring to use the same shall immediately furnish complete details thereof, together with the reason for late discovery, to the Court and to all other parties. Use of such evidence or witnesses shall then be allowed only by order of the Court for good cause shown and in the furtherance of justice.

**XII. SPECIAL MATTERS**

If necessary or advisable, the Court may adjourn the Pretrial Conference from time to time or may order additional pretrial conference time.

**No motion for summary judgment or other motion filed after the date of this Order will be grounds for cancellation or postponement of the Pretrial Conference.**

**MOTIONS FOR SUMMARY JUDGMENT SHALL BE SCHEDULED FOR HEARING PRIOR TO THE PRETRIAL CONFERENCE**

If, after Order Setting Pretrial Conference and Jury Trial is entered 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 COST OF SUMMONING THE JURY.

**SHOULD A PARTY’S ATTORNEY, OR A PARTY IF PRO SE, FAIL TO APPEAR AT THE PRETRIAL CONFERENCE OR FAIL TO COMPLY WITH DIRECTIONS SET OUT ABOVE, AN EX PARTE HEARING MAY BE HELD AND JUDGMENT OF DISMISSAL OR DEFAULT OR OTHER APPROPRIATE JUDGMENT COULD BE ENTERED, OR SANCTIONS IMPOSED.**

DONE in Quincy, Florida on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

David Frank

CIRCUIT JUDGE