

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR MARTIN COUNTY, FLORIDA

CASE NO.:

Plaintiff,

v.

Defendant.

ORDER DIRECTING PRE-TRIAL PROCEDURE AND SETTING NON-JURY TRIAL

NOTICE TO PARTIES

*The court expects that the party who filed the notice for trial did so after reading and contemplating the court's procedures reiterated in this order . All discovery should be completed, all major pretrial motions should have been heard by the court and ruled upon, and mediation should have been completed both after discovery was answered and again prior to filing your notice for trial. Both mediations have resulted in an impasse. IN ADDITION, THE ATTORNEYS AND THE ACTUAL PARTIES TO THE CASE MUST ATTEND THE DOCKET CALL IF THE CASE IS GOING TO BE SET FOR TRIAL – no appearances by phone by attorneys or the parties, unless the party lives more than 100 miles away and then the party can appear by phone. *All the content of this Order should be read and understood with this in mind.**

DOCKET CALL DATE:

DOCKET CALL TIME:

NON-JURY TRIAL WEEK DATE(S):

PLACE:

MARTIN COUNTY COURTHOUSE
100 EAST OCEAN BOULEVARD
COURTROOM – (A3-3)
STUART, FLORIDA 34994

This case is set for docket call as indicated above before the Honorable Steven J. Levin. Attorneys designated to try this case are directed to appear, in person, for docket call on _____ **at 9:30 a.m.** at the Martin County Courthouse, Courtroom "A3-3", Stuart, Florida. Cases will be set for trial weeks to come in a priority order. Back up parties should be ready to take the place of cases in front. Please notify the court immediately if the case is settled. Failure to appear at docket call will result in the dismissal of plaintiff's case if plaintiff fails to appear, or the entry of a default against defendant if defendant fails to appear. Should a default be entered, trial will be held on any remaining issues of damages.

PRE-TRIAL PROCEDURE IN CIVIL ACTIONS:

1. **MEDIATION.** Mediation should have already been completed before filing a notice for trial, in addition to the mediation held at the beginning of the case after discovery has been answered. If you filed your notice for trial prematurely in this regard, please file a notice of withdrawal of the notice for trial; and complete the 2nd mediation.

The rules for each mediation are as follows:

Counsel must confer and select a mediator and the date, time and place for mediation. **Counsel for the Plaintiff** must coordinate the mediation conference and must submit an order setting mediation to the court, with a copy to the mediator. The following rules for mediation apply, and must either be specifically listed in the mediation order or be incorporated in it by reference:

- a. The personal appearance of counsel who will try the case and their clients (a management representative if a corporate party) with full authority to enter into a full and complete compromise and settlement is mandatory. An insured party must have a fully authorized representative, not just the attorney for the insurance company, attend the mediation conference. The insurance representative must have written authority to settle the case up to the policy limits, and must present the authority to the mediator at the beginning of the mediation session.
- b. The court will impose sanctions for all parties that do not personally attend the conference. The participants must be prepared to spend as much time as is necessary to settle the case or until an impasse is declared by the mediator.
- c. The parties may present a brief written summary of the facts and issues to the mediator five (5) days before the conference.
- d. All discussions, representations and statements made at the mediation conference are privileged as settlement negotiations.
- e. Unless agreed otherwise by the parties, the mediator must be compensated equally by the parties.

2. DISCLOSURE OF TRIAL WITNESSES.

Subject to the provision of F.S. 57.071(2) which shall govern in the event of conflict, the names and addresses of all potential expert witnesses, along with the nature of their expertise, and a brief statement of the opinion testimony that will or may be offered at trial, must be disclosed by the plaintiff to all opposing parties no less than ten (10) days prior to docket call, and must be disclosed by the defendant to all opposing parties no less than five (5) days prior to docket call. If a report has been created by the expert, a copy (if written) or a written summary (if oral) must also be provided within the same time frames. If written or oral reports are created at a later point in time, they must be provided to all opposing parties immediately. The names and addresses of all potential fact witnesses, and a summary of the nature of their testimony, must be disclosed by each party to each other party, no less than ten (10) days prior to docket call. Witnesses discovered after the cutoff date must be immediately disclosed. Except for stating "all witnesses listed by other parties", witnesses must be specifically named. Incorporating "all persons deposed

or named in depositions or evidence produced", or such similar provision, is not acceptable. All witnesses must be made available for depositions prior to the discovery cutoff date or they will not be permitted to testify, absent good cause shown.

3. **COUNSEL MUST MEET.** Prior to docket call, counsel, or parties if not represented by counsel, shall meet at a mutually convenient time and place and:

- a. Discuss settlement;
- b. Simplify the issues and stipulate to as many facts and issues as possible;
- c. Prepare a Pretrial Statement in accordance with Paragraph 4;
- d. Examine all exhibits and exchange lists of exhibits, and, in writing, list all objections to trial exhibits, including video exhibits; and
- e. Exchange lists of the names and addresses of all trial witnesses.

4. **PRE-TRIAL STATEMENTS MUST BE FILED.** It shall be the duty of counsel for plaintiff to see that the Pretrial Statement is drawn, executed by counsel for all parties, and filed with the Clerk prior to the date set for docket call. Counsel for all parties are charged with good faith cooperation in this regard. The Pretrial Statement shall contain the following in separate numbered paragraphs:

- a. A concise statement describing the facts of the case in an impartial, easily understandable manner;
- b. A list of all pending motions requiring action by the court;
- c. A statement of agreements and stipulated facts which require no proof at trial;
- d. A statement of all issues of law and fact for determination at trial;
- e. A specification of the damages and/or relief claimed;
- f. A statement of the estimated time needed for trial;
- g. Any other agreements; and
- h. An identification of unusual issues, either evidentiary or procedural, that are expected to occur at trial;
- i. A list of the witnesses to be called at trial with their addresses. A brief statement as to the nature of the witness' testimony is required. Expert witnesses shall be designated as such with a brief statement as to the nature of the expertise and opinion testimony to be offered. Witnesses not listed may not be called at trial. As to each party, the court will limit before and after witnesses to no more than three. The court will limit expert witnesses to no more than two in any one expert field. The court may make such other rulings or limitations on witnesses, including experts, as the nature of the case and justice requires;
- j. A list of exhibits (including depositions to be read) which may be introduced at trial. Exhibits not listed may not be introduced at trial. All exhibits as set forth shall be marked and filed with the clerk prior to trial. Please mark as follows:
 1. A list of all exhibits to be offered by plaintiff and agreed to and initialed by defendant to be submitted in evidence without objection (to be marked plaintiff's exhibits 1, 2, 3, etc.);
 2. A list of all exhibits to be offered by defendant and agreed to and initialed by plaintiff to be submitted evidence without objection (to be marked defendant's exhibits 1, 2, 3, etc.);
 3. A list of all exhibits of plaintiff objected to; defendant shall note the specific evidentiary objections and the reason therefore on the pretrial statement;

4. A list of all exhibits of defendant objected to; plaintiff shall note the specific evidentiary objections and the reason therefore on the pretrial statement;
5. Each party shall prepare in advance of trial and furnish to the courtroom clerk at the time of commencement of trial, a written list of exhibits containing a brief description of each. Please note, exhibits must be listed in a reasonably specific manner. For example, stating “all documents produced during discovery” or such similar description is NOT acceptable. Additionally, parties may not “reserve” objections in the pre-trial statement.

5. **COURT REPORTERS.** All contested matters must be reported. Counsel for plaintiff (petitioner) shall be responsible for having a court reporter present and/or available. Failure to do so may be grounds for cancellation of the trial or hearing, at the option of the court and may be considered grounds for sanctions if it contributes to a disruption of the court's schedule.

6. **UNILATERAL FILING OF PRETRIAL STATEMENT.** If for any reason a Pretrial Statement is not executed by all counsel, each counsel shall file and serve separate proposed Pretrial Statements prior to the date set for docket call, with a statement of why no statement was executed. Each party shall have five days from receipt of the other parties' trial exhibits to make specific objections to each exhibit, including basis of objection. Failure to object within this time shall constitute a waiver to the admissibility of those exhibits.

7. **ADDITIONAL EXHIBITS, WITNESSES OR OBJECTIONS.** At trial, the parties shall be strictly limited to exhibits and witnesses disclosed and objections reserved, absent agreement specifically stated in the Pretrial Statement or order of the court upon good cause shown. Failure to reserve objections constitutes a waiver. A party desiring to use an exhibit or witness discovered after counsel have met pursuant to paragraph 3, shall immediately furnish the court and other counsel with a description of the exhibit or with the witnesses names and addresses and the expected subject matter of testimony, together with the reason for the late discovery of the exhibit or witness. Use of the exhibit or witness may be allowed by the court for good cause shown or to prevent manifest injustice.

8. **DISCOVERY.** Unless the party who filed the notice for trial contends in good faith that the opposing party has been dilatory in preparation, **discovery should have already been completed prior to filing a notice for trial.** Absent agreement, further discovery will be allowed only upon Order of the court for good cause shown.

9. **PRE-TRIAL CONFERENCE.** No pre-trial conference pursuant to Florida Rule of Civil Procedure 1.200 is set by the court on its own motion. Most of the time, any party requesting a pre-trial conference should have already requested one before the case was “ready for trial.”

10. **UNIQUE QUESTIONS OF LAW AND PRE-TRIAL BRIEFS.** No later than the ten days prior to the commencement of the trial, counsel for the parties are directed to submit to the court appropriate memoranda with citations to legal authority, in support of any unique legal questions which may reasonably be anticipated to arise during the trial. The court welcomes pretrial memoranda and proposed judgments including findings of fact.

11. **COMPLIANCE REQUIRED.** All counsel are directed to comply with this pretrial order. Any failure on the part of any counsel to act in good faith and reasonably attempt to comply with this pretrial order shall immediately be reported to the court by the filing of a Suggestion of Non-Compliance with Pretrial Order. A copy of the Suggestion of Non-compliance shall be served on all counsel and a copy shall be sent to the court. The Suggestion of Non-Compliance shall specify the attorney alleged to be in non-compliance and state how the attorney has not complied with the pretrial order.

ORDERED at Stuart, Martin County, Florida, on _____.

STEVEN J. LEVIN
CIRCUIT JUDGE

COPIES FURNISHED TO:

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 Court Administration, 250 NW Country Club Drive, Suite 217, Port St. Lucie, FL 34986, (772) 807-4370 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.