

**IN THE CIRCUIT COURT OF THE 17TH JUDICIAL
CIRCUIT, IN AND FOR BROWARD COUNTY, FLORIDA**

**Case No.
Complex Litigation Unit**

Plaintiff,

vs.

Defendant.

_____ /

**ORDER SETTING FINAL CASE MANAGEMENT
CONFERENCE FOR JURY TRIALS**

The parties shall file a "Joint Final Pretrial Stipulation" no later than seven (7) working days prior to the final Case Management Conference. The Final Case Management Conference is scheduled for _____, 200 ,at the Broward County Courthouse, 201 S.E. 6th Street, Room # _____, Fort Lauderdale, FL.

1. The Pretrial Stipulation shall contain a concise Statement Of The Case that can be read and/or distributed to the jury panel prior to *voir dire* to apprise the panel of the subject matter in this case.

2. The parties shall also stipulate to as many facts and issues as possible in their "Statement of Uncontested Facts" That statement will be included in each juror's notebook, as further addressed in Paragraph 7 below.

The court orders the parties to address this matter in good faith with specific attention to matters already admitted by answer, answers to requests for admissions, and answers to interrogatories. The parties will be permitted to elicit witness testimony concerning undisputed background information (generally by leading questions) for

the purpose of establishing a foundation or context for additional testimony.

3. The parties' Joint Final Pretrial Stipulation shall include two separate lists of their witnesses and exhibits. Each party's first witness list, the "A" list, shall designate those witnesses the party intends to call at trial. The second list, the "B" list, shall designate witnesses that the party may call, depending on circumstances which arise during trial. The parties shall include an estimate of time expected for direct and cross-examination of each "A" witness. Based upon this estimate, the parties shall re-estimate the number of trial days required [assuming a six (6) hour trial day and a four (4) day trial week].

4. Each party shall prepare exhibit lists in the same manner as described in Paragraph 3; that is, each party shall prepare an "A" list identifying those exhibits that will be offered into evidence, and a "B" list of exhibits that may be offered.

Exhibits not listed will not be admitted into evidence at trial, except for good cause. Substantive, succinct, legal objections to any listed "A" exhibit shall be reflected in a separate column of the list in accordance with CLP 9.2 (c) ("all objections reserved" does not suffice). Objections not made, including objections not made with specificity, are waived. As with record custodians, the parties shall attempt to enter into stipulations regarding the authenticity of documents, thereby reserving their objections only for substantive evidentiary issues.

5. The parties shall coordinate their efforts to prepare a set of proposed jury instructions, verdict forms, and where applicable, jury interrogatories for submission to the court, as part of the pretrial statement. In their proposed instructions, the parties shall designate areas of agreement and those areas which remain in dispute regarding substantive application of the law. The parties shall utilize Florida Standard Jury Instructions, as applicable, for both the procedural and substantive instructions. The parties may propose other substantive jury instructions if

related to a count at issue. If the parties believe the pattern instructions have been superseded by applicable case law, they may red line their proposed revisions to the pattern instructions and provide highlighted copies of the case law with their pretrial stipulation statement. The proposed jury instructions shall be submitted in printed form, accompanied by a computer disk, together with applicable legal authorities. The legal authorities shall be included in the court's notebook, along with the proposed jury instructions, and given to the court with key portions of the authority highlighted.

6. The parties shall also coordinate the preparation of trial notebooks for distribution to jurors at the commencement of evidence at trial. The notebooks shall include the statement of the agreed facts, any joint exhibits, and stipulated copies of the parties' "A" exhibits. The parties shall provide the court on the first day of trial with a sufficient amount of notebooks for distribution to each juror, and for the court.

7. All exhibits must be pre-marked and initialed. The parties shall prepare their exhibit lists and submit those lists on the attached form, which is available from the Clerk's office. The plaintiff shall mark the exhibits to which there is no objection, numerically (e.g. "Pl-1"). The first defendant listed shall similarly mark its exhibits (e.g. "1-Def-1"). The second listed defendant shall similarly make its exhibits (e.g. "2-Def-1"); additional defendants shall mark their exhibits accordingly. A typewritten exhibit list setting forth the number, and the description of each exhibit must be submitted at the final case management conference.

8. At trial, each exhibit shall be marked with a sticker identifying the case number, exhibit number, and party offering the exhibit. No document or exhibit, except impeachment exhibits, may be offered into evidence unless it has been pre-marked and initialed by all counsel as having been reviewed. Plaintiff's exhibits to which there is an objection shall be marked

“Pl-1-1” (for example) consecutively. Defendant’s exhibits to which there is an objection shall be marked “Def-1-1” (for example) consecutively.

9. In accordance with CLP 9.2(e), at the final case management conference, counsel and unrepresented parties **shall** agree upon and specify in writing in the Joint Final Pretrial Stipulation the pages and lines of each deposition (except where used solely for impeachment) to be published to the trier of fact. The parties shall include in the Joint Final Pretrial Stipulation page-and-line description of any testimony that remains in dispute together with argument and authority for each party’s position. The parties at the final case management conference shall submit edited and marked copies of any depositions which are to be offered into evidence including edited videotaped depositions. Designation of an entire deposition will not be permitted, except on a showing of necessity.

10. The rule of sequestration is hereby invoked unless otherwise agreed and provided in the Joint Final Pretrial Stipulation. Each party shall bring to the court's attention the appearance of any witness in the courtroom which violates the rule. The attorneys and parties who remain in the courtroom are prohibited from communicating, by any means, including any electronic device, any testimony of a witness, or summary of testimony, to a prospective witness, or to another person whose purpose is to communicate with a prospective witness. Any intentional violation of this order may be addressed by contempt or other dire sanctions.

The rule restriction will not apply to the opposing parties' expert witness who may desire to hear the testimony of another expert to be able to comment on such testimony in the defendant's case or on plaintiff's rebuttal case.

11. If the parties desire to use charts or exhibits during opening statements, each item must be disclosed to the other party as part of the Joint Final Pretrial Stipulation. In the event a

party objects, the court shall rule on the item prior to its use in opening statement. No item of actual evidence may be displayed to the jury, absent prior written agreement between the parties, or order of the court, which specifies the item of evidence that may be used.

12. The parties shall bring to the court's attention the proposed use of electronic equipment, and if permitted, arrange a date for installation. The parties shall consult with each other regarding the use of the other's computer-based exhibits. For use during *voir dire*, the parties shall prepare an exhibit to be shown to the panel identifying the law firms and attorneys who have worked on this case and the names of persons who may be witnesses in the case, including, where applicable, their titles.

13. All summaries to be offered into evidence shall comply with § 90.956, Fla. Stat. Summaries shall be included in the Joint Final Pretrial Stipulation. Any objection to a summary shall be filed ten (10) days prior to the conference. Summary evidence is admissible under the statute only if the underlying materials are admissible. If written objections are filed, the underlying materials shall be produced in court and shall be subject to a hearing in accordance with the Florida Evidence Code, prior to their admission.

14. All demonstrative exhibits shall be disclosed to the opposing party and referenced in the Joint Final Pretrial Stipulation. The party proposing to use a demonstrative exhibit as substantive evidence shall include it on the "A" exhibit list. With respect to an item to be used demonstratively, the burden shall be on the proposing party to show that it depicts relevant information that is, or will be, proven by other, substantive evidence. Any objection to the opposing party's demonstrative exhibit shall be raised in the Joint Final Pretrial Stipulation.

15. Where the parties have designated experts and exchanged expert witness summaries and reports in accordance with CLP 6.2, each party, as part of the Joint Final Pretrial

Stipulation, shall set forth the following: (1) a specific statement of each opinion to which the expert is intended to testify; and (2) a list of "A" exhibits or demonstrative exhibits applicable to each opinion.

The purpose of this order is to prevent "new" opinions to be presented at trial which were not properly disclosed. Absent leave of the court, each party is hereby on notice that any "new" opinion shall be stricken; provided, however, that nothing shall prevent comment on the subject matter of another expert's testimony which is offered at trial. If any party intends to challenge an opposing party expert's opinion under §§ 90.702 or 90.703, Fla. Stat. that party shall state in the Joint Final Pretrial Stipulation the specific bases for the objection(s), including any legal authorities in support of the objection. If a brief has been filed on the subject, the parties may incorporate it by reference.

16. If either party desires the court to judicially notice any adjudicative facts pursuant to § 90.201, Fla. Stat. such request shall be in writing and included in the Joint Final Pretrial Stipulation. The request shall specify with particularity the specific facts sought to be recognized and provide any supporting authority. Any objection shall also be in writing and contained attached as an exhibit to the Joint Final Pretrial Stipulation.

17. 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 court's ADA Coordinator, Broward County Courthouse, 201 S.E. 6th Street, Fort Lauderdale, FL 33301, 954.831.7743 within two (2) working days of your receipt of this order. If you are hearing or voice impaired, call 954.831.7743.

DONE AND ORDERED in Chambers at Fort Lauderdale, Florida, this _____ day of,
200 .

CIRCUIT COURT JUDGE

Copies furnished to: