

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT,
IN AND FOR MARION COUNTY, FLORIDA

CASE NO. 17-CA-

Plaintiffs,

vs.

Defendant.

ORDER SCHEDULING PRETRIAL CONFERENCE AND JURY TRIAL

Pursuant to the Stipulation for the _____ Trial Term filed, it is

ORDERED:

1. A pretrial conference in this cause will be held before Judge Edward L. Scott, in **Courtroom 2D** of the Marion County Judicial Center, 110 NW 1st Avenue, Ocala, FL, 34475, on _____, **beginning at 3:00 P.M.**, pursuant to Florida Rule of Civil Procedure 1.200 (2012), to consider all matters suggested by the rule. (15 minutes have been reserved.) The Court reserves the right, at the pretrial conference, to dispose of any pending motions but may defer ruling on the same and/or any requests for preliminary rulings if the Court, in its discretion, believes that additional briefing under the motion practice procedure is necessary.

2. Each party shall be represented at the pretrial conference by the attorney who expects to conduct the actual trial of the case. Telephonic appearance is not permitted for the pretrial conference. If the party is *pro se* (does not have an attorney), the party must attend the pretrial conference. A party appearing *pro se* is held to the same standards as required by any attorney including, but not limited to, complying with the applicable Florida Rules of Civil Procedure pleading requirements and Florida Statute §90 et seq. See, *Kohn v. City of Miami Beach*, 611 So.2d 538 (Fla. 3rd DCA 1992). Such attorney or *pro se*

party shall be familiar with the provisions of Florida Rule of Civil Procedure 1.200 (2012), with his/her own evidence, and shall have full authority to disclose facts, stipulate to undisputed facts and waive technical requirements for admission of evidence. Failure of a represented party to appear by trial counsel, or, if unrepresented, in person, may be grounds for the Court to dismiss the case, strike the answer or other pleadings, hold the attorney or pro se party in contempt and/or take such other action(s) as the Court deems appropriate.

3. Discovery Deadlines:

- a) All discovery – including that of medical experts – shall be conducted and concluded at least **ten (10) days prior to the date of pretrial conference.**
- b) A witness list with the names and addresses of all individuals who may be called by the party to testify at the trial– shall be filed at least **sixty (60) days prior to the pretrial conference.**
- c) As to any expert witnesses:
 1. the Plaintiff’s expert witness list must be filed **seventy-five (75) days prior to the pretrial conference.**
 2. the Defendant’s expert witness list must be filed **sixty (60) days prior to the pretrial conference.**
 3. The parties must also produce all information as set forth in Florida Rule of Civil Procedure 1.280(b) (2012). The failure to include a proper address for any witness may cause the Court to exclude this witness from testifying at trial.
- d) Any and all examinations under Florida Rule of Civil Procedure 1.360 (2012), must be completed no later than **seventy-five (75) days prior to the date of pretrial** and the IME report generated must be tendered to the opposing counsel no later than **sixty (60) days** prior to the date of pretrial so that counsel has sufficient time to depose the Rule 1.360 expert witness. The failure to otherwise comply with the time frame requirements set forth in this order may result in the Rule 1.360 expert witness and his/her report being excluded from trial.

4. Any party that requests a “*Fabre*”¹ defendant/non-party be included on the verdict form, must identify, in writing, the specific name of the *Fabre* Defendant/non-party and file this disclosure with the Clerk of Court no later than thirty (30) days before the pretrial conference², unless this date is extended by written stipulation of the parties and timely filed in the court file, or by further order of this Court, upon good cause being shown. Any failure to comply with these provisions of this order may constitute a waiver.

5. Prior to the pretrial conference, counsel shall confer on the following:
- a) Any exhibits too bulky to be transported to the pretrial conference;
 - b) Any matters of law or fact about which there is no issue;
 - c) Any matters that would simplify the issues or aid in the speedy disposition of the action; and;
 - d) Possible settlement.

6. If the parties have not voluntarily mediated this cause, the parties shall confer and select a certified mediator and shall agree on a date, time and location for the mediation prior to the pretrial conference. **Mediation must be completed prior to the pretrial conference and the court will only accept a mediation disposition report which is dated no more than one (1) year from the date of the pretrial conference. Any mediation(s) conducted in excess of one (1) year from the date of the pretrial conference will not be accepted and a new/updated mediation must be conducted.** Failure to comply with this mediation order may result in the rescheduling of the pretrial conference.

7. **Oral argument for dispositive motions and responses (including but not limited to motions for summary judgment and motions in limine) must be filed no later than 75 days before the pretrial conference and must be heard no less than sixty (60) days prior to the pretrial conference.** Failure to timely comply with this requirement may result in waiver of consideration of the

¹ Pursuant to *Fabre v. Marin*, 623 So2d 1128 (Fla. 1993).

² See, *Nash v. Wells Fargo Guard Services, Inc.*, 678 So2d 1262 (Fla. 1996)

motion in limine or dispositive motion(s) or imposition of other sanctions. The Court may consider waiving this requirement on a case-by-case basis upon request by a party if good cause is demonstrated.

8. AT LEAST SEVEN (7) DAYS PRIOR TO THE PRETRIAL CONFERENCE, COUNSEL AND ANY PRO SE PARTY SHALL DELIVER, with a copy to opposing counsel, the following:

a) A brief memorandum setting forth the general nature of the proceedings, including:

- (1) The names of all parties;
- (2) Factual contentions of each party;
- (3) The type of action and relief sought;
- (4) The type of counterclaim, if any, and the relief sought thereby;
- (5) Third party actions, if any, and the relief sought thereby;
- (6) The defense(s) interposed to the Complaint, Counterclaim and/or third-party complaint;
- (7) All facts either party will admit.

b) A schedule of all exhibits and documentary evidence which may be used by the party at the trial; Any exhibit not disclosed and exchanged may be struck from the trial.

c) A witness list of the names and addresses of all individuals who may be called by the party to testify at the trial, including rebuttal witnesses. If a party fails to disclose a witness, the witness may be struck and not allowed to testify.

d) Any request for preliminary rulings on questions of law and supporting citations.

9. At least seven (7) days prior to the pretrial conference the parties shall exchange exhibits that will be used at trial. Opposing counsel shall agree or object to the admissibility thereof or agree to admissibility, reserving appropriate objection.

10. Counsel shall be prepared to present at the pretrial conference a statement of facts pertaining to the case, a statement of facts which are to be admitted by each of the parties, the issues of fact the parties intend to litigate, and the citations of the authorities in support of each point upon which the party intends to rely.

11. The Court requests that counsel for Plaintiff prepare and submit an order reciting the action taken at the pretrial conference which will be binding on the parties regarding the conduct of post-conference matters up to and including the trial however, no statements relative to settlement shall be included.

12. Any record made in the course of the conference proceedings shall be deemed part of the record made upon the trial of this cause, except statements relative to settlement. Counsel should come prepared to state a computed settlement figure acceptable to your party based upon damages and liability that can be proven. If counsel desires a transcript of the conference, arrangements should be made for it to be taken at the parties' own expense.

13. Proposed jury instructions, verdict form and statement of the case to be read to the jury shall be submitted to the Court in writing at the beginning of trial or at the date ordered at the pretrial conference. *Florida Standard Jury Instructions* shall be typed and submitted in a form suitable for presentation to the jury. If any change of the standard instructions is requested, the instruction should be submitted in the form sought. Other special jury instructions proposed to be used at the trial shall be filed and delivered to opposing counsel in writing **no less than five (5) days before trial**. All jury instructions and verdict forms submitted to the Court at the start of trial shall be accompanied by a **Microsoft Word** compatible disk to assist the Court in the finalization of the verdict and jury instructions.

14. Arrangements for the attendance of the court reporter at trial shall be the obligation of the parties and/or their counsel.

15. An Order Setting Priority of Trials shall be furnished to all attorneys approximately three weeks prior to trial week. It shall be the responsibility of the attorneys to determine the disposition of the cases as scheduled on the Order Setting Priority of Trials and to be present for trial at any time during the scheduled trial term of the Court.

16. Attorneys are encouraged to follow the Florida Bar Trial Lawyers Section, Guidelines for Professional Conduct.

17. THE TRIAL TERM IS -----, THROUGH (ONE WEEK TRIAL TERM). Juror selection will commence at 9:00 a.m. or as soon as jurors are qualified on MONDAY, -----, unless the case is specifically set for trial the second week if there is one for that month. All juries for the second week will be selected on the second MONDAY, (if there is one) at 9:00 a.m. or as soon as jurors are qualified. Cases not tried the first week will automatically roll over to the second week should the court have a second trial week that month.

ORDERED this ____ day of _____, 2018, at Ocala, Florida.

EDWARD L. SCOTT
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy hereof has been furnished by U.S. Mail or e-mail to

the following on this ____ day of _____, 2018:

Becky Knipe, Judicial Assistant

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 at the Office of the Trial Court Administrator, Marion County Judicial Center, 110 N.W. 1st Avenue, Ocala, FL 34475, Telephone (352) 401-6710 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.