

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

CASE NO.:

_____ /

DIFFERENTIATED CIVIL CASE MANAGEMENT ORDER

Effective January 2023 for Scaglione "DS" Division Only (Amended April 2024)
PARTIES TO BE AWARE OF FLORIDA SUPREME COURT CASES
FSC 22-122 & FSC 23-962

NOTICE: IT IS THE PLAINTIFF'S RESPONSIBILITY TO SERVE THIS ORDER TO EACH DEFENDANT, OBTAIN PROOF OF SERVICE AND FILE PROOF OF SERVICE INTO THE COURT FILE.

THIS MATTER having come before the Court for review of the above styled civil case by the presiding judge, either sua sponte OR upon the filing by the Plaintiff of a Notice of Completion of Service of Process and Case Status Report, and the Court being otherwise more fully informed, it is therefore,

The Court notes a Notice of Completion of Service of Process and Case Status Report has not been filed.

The Court further notes that the Completion and Submission of a Stipulated Case Management Plan/Order does not excuse any party from attendance at a Case Management Conference Hearing set by the Court. (A CMC is only set after a Notice for Trial is filed, see #4)

Florida Rule of General Practice and Judicial Administration 2.250(a)(1)(B) states that the presumptively reasonable period of time for the resolution of a civil jury case is eighteen (18) months.

Florida Rule of General Practice and Judicial Administration 2.545(a) requires judges and lawyers to "conclude litigation as soon as it is reasonably and justly possible to do so."

THE COURT ADVISES THE PARTIES THE PROCEDURES AS TO HEARING ATTENDANCE ARE AS FOLLOWS:

IN PERSON APPEARANCES ARE WELCOME BUT BOTH COURTCALL AND ZOOM HEARINGS ARE ALSO PERMITTED. SEE BELOW FOR EACH OPTION AND PROCEDURES.

THIS COURT USES COURTCALL FOR ALL TELEPHONIC HEARINGS AND ALL PARTIES MUST SET UP THEIR OWN TELEPHONIC APPEARANCE THROUGH COURTCALL. (See Courtcall.com or call 1-888-882-6878. You must also provide a motion and order to appear by phone) PRO-SE PARTIES MUST ALSO SET UP COURTCALL FOR PHONE APPEARANCE (See Courtcall.com or call 1-888-882-6878) AND CONTACT THE COURT PRIOR TO THE HEARING DATE AT bhaimes@circuit5.org TO CONFIRM WITH THE COURT YOU HAVE ARRANGED YOUR APPEARANCE.

IF A VIRTUAL HEARING VIA ZOOM IS PREFERRED, PLEASE SEE ZOOM PROCEDURES FOUND ON THIS COURT'S WEBPAGE. IT IS THE PARTIES RESPONSIBILITY TO FOLLOW ALL PROCEDURES/INSTRUCTIONS FOR ZOOM HEARINGS.

*****THE COURT REQUIRES ACKNOWLEDGMENT OF THE ABOVE BY RECEIPT OF A MOTION AND ORDER (COURTCALL), NOTICE OF ZOOM HEARING OR INVITATION TO THE COURT (ZOOM APPEARANCE), OR EMAIL (ACKNOWLEDGING PERSONAL APPEARANCE) WITHIN 5 WORKING DAYS PRIOR TO HEARING DATE.*****

All parties are directed to strictly comply with the "Order Regarding Courtesy Copies to the Presiding Judge," located on the Circuit 5 website under the Honorable Donald E. Scaglione webpage. This Includes the Parties' Requirement of Sending the Court a Courtesy Copy of Any and All Motions/Notices Filed in this Matter and the Responses/replies Thereto. Failure to provide the Court with a courtesy copy will potentially delay a ruling on said motion because the Court will not be made aware of the pending matter. Failure to comply with the motion practice procedures may result in the pending motion being stricken, granted, or denied, by default.

All parties are further directed to strictly comply with the "Administrative Order Establishing Motion Practice Procedures for the Civil Jury and Civil Non-Jury Docket for the Honorable Donald E. Scaglione Circuit Civil Division". This is also located on the Circuit 5 website under the Honorable Donald E. Scaglione webpage.

Warning as to Generative Artificial Intelligence:

An attorney must be aware of the benefits and risks of Generative Artificial Intelligence applications.

An attorney must comply with Rule 4-1.1 Competency, 4-1.6 Confidentiality, Rule 4-5.1 Supervision, Rule 4-5.3 Supervision of non-lawyers.

Attorneys remain responsible for all their work product.

See Florida Bar Ethics Advisory Opinion 24-1, January 19, 2024.

If any Generative AI is used, you must note its use on the pleading to the Court.

Pro-Se warning as to Generative Artificial Intelligence:

If you choose to use programs that rely on Generative Artificial Intelligence (AI) to prepare any documents, you should check them carefully before filing with the court. Generative AI-based programs are not a substitute for competent legal counsel. While they may be useful, there is a risk that they may produce inaccurate arguments, false citations, or bad advice. As a self-represented litigant, you must do your best to check the accuracy of anything you submit to the court.

ORDERED AND ADJUDGED as follows:

1. The above styled action shall be designated as a Complex/General/Streamlined case type at Case Management Conference set by Separate Order (CMC set after receipt by the Court of the Notice For Trial).
2. At CMC Counsel or parties pro se shall be prepared to discuss with this Court the following:
 - a. All counsel are required to bring their personal calendars to the Case Management Conference.
 - b. Set or reset the time of trials.
 - c. Coordinate the progress of the action if complex litigation factors are present.
 - d. Limit, schedule, order or expedite discovery.
 - e. Schedule motions in limine that do not fall under the motion practice order.
 - f. Require filing of preliminary stipulations if issues can be narrowed.
 - g. Schedule other conferences or determine other matters that may aid in the disposition of this action.
 - h. Status of Settlement negotiations.
 - i. Designation of civil cases as a complex (FRCP 1.201), streamline or general as required by the Florida Supreme Court AOSC20-23, Amendment 12 and 5th Circuit (Hernando County Administrative Order 2021-13)

Prior to CMC, Counsel will file with the Clerk, serve opposing counsel, and deliver a copy to the undersigned Judge's Chambers not less than 48 hours before the above Case Management Conference, a written statement which shall contain the following:

A statement of the facts that they believe supports their claim (if Plaintiff) or a statement of the facts that support the denial of the Plaintiff's claims (if Defendant).

Facts that they believe to be undisputed.

Issues of Law that should be decided by the Court.

A proposed discovery schedule and anticipated trial date.

Each party shall be represented at the conference by the attorney who expects to conduct the actual trial, and who shall be familiar, not only with the provisions and purposes of Rule 1.200, Fla. Rules of Civil Procedure, but with his own evidence, and who shall have full authority to discuss, agree and stipulate, insofar as possible, on all matters of facts and law not in issue which will simplify and expedite the trial.

Each counsel shall be available for consultation with their respective clients as to (a) stipulations relating to admission of evidence, and (b) settlement offers; but clients shall not participate at such Conference. Failure of any party to be available for such consultation shall result in the Court striking such party's pleadings, and such other sanctions as are appropriate.

3. The following deadlines shall be observed: (from the date of filing complaint)

Events	Case Completion Periods:
Service of Complaints	120 Days
Service Under Extensions	240 Days
Addition of New Parties	240 Days
Completion of Fact & Expert Discovery	270 Days Streamline 450 Days General
Objection to Case Differentiation	30 Days
Objections to Pleadings	20 Days
Resolution of All Pretrial Motions	Prior to Pretrial Hearing See Pretrial Order Issued after CMC Hearing
Mediations	270 Days Streamlined 450 Days General At least 45 Days Prior to Pretrial Hearing
Trial	12 or 18 Months, Set at CMC
Deadline for Plaintiff(s) to file witness list	120 days before pretrial
Deadline for Defendant(s) to file witness list	90 days before pretrial
Deadline for filing any dispositive motions	120 days after close of fact discovery
Deadline for filing any <i>Daubert</i> motions	30 days after the close of expert discovery
Deadline to have any dispositive and <i>Daubert</i> motions heard	45 days before the pretrial Note: If not heard by this date, dispositive and <i>Daubert</i> motions will be deemed abandoned

Deadline to file Exhibit List	21 days before the pretrial conference
Date of Meeting Prior to Pretrial Conference	10 days before the pretrial
Deadline for filing: The joint final pretrial statement, Any motion in limine, Objections to depositions, Proposed jury instructions, and Verdict form	14 days before the pretrial conference Note: If not filed by this date, motions in limine will be deemed abandoned.
Date and Time of Pretrial Conference	Set at CMC
Deadline to contact Court Technology if use of trial technology is contemplated	7 days before trial.

4. **The deadlines established in this Case Management Order shall be strictly enforced by the court *unless good cause can be shown*. A firm trial date will be ordered by the presiding Judge when THE CASE IS AT ISSUE (the Court must be provided a Courtesy Copy of the Notice) pursuant to Florida Rule of Civil Procedure and set at Case Management Conference (see the Court's Trial Scheduling/Docketing Procedure, located on the Court's webpage under the Procedures drop down menu). Procrastination in completing discovery or the unavailability of counsel will not constitute good cause for a change to these deadlines. Failure to comply with deadlines may subject the parties to sanctions, including but not limited to striking of discovery, witnesses, evidence, pleadings, imposition of attorney fees and/or dismissal.**
5. **Within five (5) days from the date of e-service, Plaintiff's counsel shall serve a copy of this Order to each self-represented party by U.S. mail, first class, postage paid, or by e-file and file a certificate signed by said counsel that service has been made as set forth herein.**
6. **These deadlines are subject to change by the presiding Judge at any time to aid and assist in the closure of the case.**
7. **The Completion and Submission of a Stipulated Case Management Plan/Order does not excuse any party from attendance at a Case Management Conference Hearing set by the Court.**
8. **Continuances.**

Pursuant to the Supreme Court Order and the Case Management Plan, the Court will apply a firm continuance policy allowing continuances only for good cause shown. See Supreme Court

Order, p. 17 (directing chief judges to direct presiding judges to “apply a firm continuance policy allowing continuances only for good cause shown.”).

- A. **Motion and Hearing Required.** Any party seeking a continuance of any deadlines in this Uniform Trial Order must file a motion. This motion falls under Motion Practice Administrative Order.
 - B. **Motion Must Address Impact of Continuance on Other Deadlines.** Any motion seeking a continuance of any deadlines in this Uniform Trial Order must indicate what, if any, impact the continuance of that deadline would have on all other remaining deadlines. See Florida Rule of General Practice and Judicial Administration 2.545(e). (“All judges shall apply a firm continuance policy. Continuances should be few, good cause should be required, and all requests should be heard and resolved by a judge.
 - C. All motions for continuance shall be in writing unless made at trial and, except for good cause shown, shall be signed by the party requesting the continuance.
 - D. All motions for continuance in priority cases shall clearly identify such priority status and explain what effect the motion will have on the progress of the case.”).
 - E. All continuance motions shall/will be signed but their respective clients.
 - F. All continuance motions shall/will comply with Meet and Confer Administrative Order.
9. **Meeting Prior to Pretrial Conference.**

It is Plaintiff’s responsibility to take the lead in scheduling an agreed date and time for all counsel and any self-represented parties to meet, no later than 10 days before the pretrial conference, to:

- A. Mark all exhibits for identification;
- B. Prepare an exhibit list for the Clerk and Court (actual exhibits and documentation evidence must be available for inspection at this time);
- C. Stipulate to the admission into evidence or list specific objections, if any, to each proposed exhibit;
- D. Stipulate as to any matter of fact and law about which there is no issue to avoid unnecessary proof;
- E. Review all depositions which are to be offered for any purpose other than impeachment to resolve objections to the portions to be offered in evidence;
- F. Discuss the possibility of settlement;
- G. Submit an itemized statement of special damages Plaintiff expects to prove;

H. Discuss and complete any other matters which may simplify the issues or aid in the speedy disposition of this action, its pretrial conference and trial; and

10. Jury Instructions & Verdict Form.

By the deadline set forth above, jury instructions and verdict forms must be filed with the Clerk and e-mailed in Word format to the division email address in accordance with the following:

- A. Each instruction must be printed on a separate sheet of paper;
- B. Counsel must confer prior to the pretrial conference as to any agreement they can reach on the instructions and verdict forms and advise the court at the pretrial conference; and
- C. Counsel are responsible for providing to the Court hard copies of the jury instructions and verdict form. Please ensure that there are enough copies for all jurors and alternate jurors, lawyers and any self-represented parties, the courtroom clerk, and the Court to each be given their own copy. The jurors' hard copies should not be numbered, should not have any designation as to the requesting party, and should not contain citations to supporting authority.

11. Full Settlement Authority.

Counsel must be prepared to negotiate settlement at the pretrial conference and have full authority to settle the case or have available at the conference a party or representative who does have full authority to settle.

12. Availability of Witnesses.

It is counsel's responsibility to do all things reasonable and necessary to ensure the availability of their witnesses for the entire trial period or to otherwise preserve their testimony for trial in accordance with the Florida Rules of Civil Procedure.

13. Settlement Notification.

Counsel must immediately notify the Court in the event of settlement and submit a stipulation for an Order of Dismissal and a Final Disposition Form. Counsel must likewise notify this Court if the parties wish to avail themselves of the Voluntary Trial Resolution provisions of Chapter 44, Florida Statutes.

14. Jury Communication by Bailiffs.

In accordance with Florida Rule of Civil Procedure 1.431(i), routine ex parte communication between the bailiff or other courtroom personnel and the jurors are limited to juror comfort and safety and may occur off the record. Examples of permissible ex parte communication include discussion of routine matters such as parking, location of break areas, how and when to assemble for duty, proper attire, and which items of a juror's personal property may be

brought into the courthouse or jury room. Except for these types of permissible ex parte communications regarding juror comfort and safety, any other communication between bailiffs or other courtroom personnel and the jurors will be promptly reported to the court and the court will notify the parties of any matter that may be of interest to the parties.

15. Applicability of this Order to Self-Represented Parties.

All provisions of this order that require compliance by counsel are likewise applicable to any self-represented party.

16. Presence of Trial Counsel Required at Pretrial Conference.

At least one trial counsel per party must be physically present at the pretrial conference. May be by zoom, upon Court approval.

All parties are directed to strictly comply with the “Administrative Order Establishing Motion Practice Procedures for the Civil Jury and Civil Non-Jury Docket for the Honorable Donald E. Scaglione Circuit Civil Division,” and the “Administrative Order Regarding Courtesy Copies to the Presiding Judge”. Both orders are located at <http://www.circuit5.org/courts-judges/hernando-county/judiciary/donald-e-scaglione/> under the “Administrative Orders/Procedures Effective January 1st, 2019” section.

FAILURE OF EITHER PARTY TO COMPLY WITH THE TERMS OF THIS ORDER MAY RESULT IN STRIKING OF PLEADINGS OR PARTS OF THEM, OR STAYING FURTHER PROCEEDINGS UNTIL THIS ORDER IS OBEYED, OR DISMISSING THE ACTIONS, OR RENDERING JUDGMENT BY DEFAULT AGAINST THE DISOBEDIENT PARTY.

W **DONE AND ORDERED** in Chambers, at Brooksville, Hernando County, Florida, this
day of April, 2024.


Donald E. Scaglione, Circuit Judge

Copy to: Court file