

IN THE CIRCUIT COURT OF THE 16TH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA IN AND FOR MONROE COUNTY

CASE NO.:

Plaintiffs,

vs.

Defendants.

_____ /

AGREED SCHEDULING ORDER

THIS CASE having been reviewed by the Court pursuant to Rule 1.200, Florida Rules of Civil Procedure, and Rule 2.085, Florida Rules of Judicial Administration, with regard to the Court's obligations thereunder, and the Court being fully advised in the premises, it is hereby,

ORDERED as follows:

MEET AND CONFER TO CREATE AGREED DEADLINES FOR CASE:

Within 20 days of the entry of appearance of counsel, counsel are ordered to meet and confer, to discuss and stipulate to reasonable time deadlines for this scheduling order, that are agreeable to all parties, and may more closely meet the needs of the litigants, given the nature of the case and matters in controversy. The form of the order may not be generally changed without leave of Court. If all counsel are able to reach an agreement on suitable deadlines which differ from the deadlines set forth herein, counsel shall submit an Agreed Scheduling Order to the Court for entry. The Court will generally not approve agreed modifications which would put the case beyond the Florida Supreme Court's time standards, absent good cause shown. Unless and until such time as all counsel have complied with this provision, and an Agreed Scheduling Order has been entered, the deadlines set forth hereafter shall govern this case. The procedure set forth above may also be used by counsel to seek modification of the Scheduling Order as the case progresses, as may be helpful to the parties and counsel.

Counsel herein are advised that the deadlines set forth herein will not be extended solely by reason of the failure to serve process on parties, addition of new parties, claims or counterclaims to the case, pendency of motions directed to the pleadings, changes in the trial date, or stipulations between the parties or their counsel, absent good cause shown and an order specifically extending the deadlines.

- 1. PLAINTIFF ORDERED TO SERVE SCHEDULING ORDER:** Plaintiff's attorney is hereby ordered to serve a copy of this Scheduling Order on each Defendant once service is obtained, and further, shall serve a copy on any new party to the action, within ten days of service of pleadings on that party. **PLAINTIFF IS REQUIRED TO SERVE A NOTICE OF SERVICE OF SCHEDULING ORDER FOR EACH SUCH SERVICE, WITH A COPY EMAILED TO THE COURT'S JUDICIAL ASSISTANT.** Any party not timely served with the Scheduling Order who has thereby been deprived of time to complete deadline items shall discuss this with all other counsel and seek a stipulated amendment to the deadlines, failing which the aggrieved party may seek relief from the Court.
- 2. FACT WITNESSES AND EXHIBITS:** All fact witnesses and exhibits must be disclosed no later than _____ by the party bearing the burden of proof on the issue the witness will testify on; the party not bearing the burden of proof on that issue shall have an additional 30 days thereafter to disclose witnesses, if any.
- 3. EXPERT WITNESSES:** All expert witnesses must be disclosed no later than _____ by the party bearing the burden of proof on the issue that the expert will testify on; the party not bearing the burden of proof on that issue shall have an additional 30 days thereafter to disclose experts, if any.
- 4. DISCOVERY DEADLINE:** All discovery (including obtaining rulings on discovery motions) shall be completed by _____. "Completed" means responses have been received, discovery motions have been ruled on, and all discovery matters fully resolved. This discovery deadline shall not prevent the taking of depositions to perpetuate testimony and depositions of records custodians to establish evidentiary predicates for trial, however, depositions to perpetuate testimony and of record custodians must be completed prior to the Pretrial Conference, and no continuances will be granted as a result of failure to comply with this requirement.
- 5. DISCOVERY DISPUTES:** All counsel are directed to meet and confer on such disputes, as set forth below, and if no agreement is achieved, counsel may be required to personally attend any hearing on such discovery dispute.
- 6. MOTION PRACTICE AND PROCEDURE:**
 - a. GENERAL MOTION FILING DEADLINE:** All motions, (excluding discovery motions which are controlled by paragraph 4, above) shall be filed no later than _____ . Any motion filed after that date will be deemed untimely and may be thereupon denied.

- b. GENERAL MOTION HEARING DEADLINE:** Timely filed motions shall be scheduled and heard no later than . Any motions not heard by that date may be denied as untimely.
- c. MOTIONS DIRECTED TO THE PLEADINGS:** All motions directed to the pleadings shall be accompanied by a notice of hearing that sets any such motion for hearing to be held within 60 days of the date of filing of the motion. Any party unable to secure hearing time to comply herewith is directed to call the Court's Judicial Assistant immediately so that hearing time can be made available. The parties are advised that the Court's Trial Order will summarily deny all motions directed to the pleadings that have been filed without being set for hearing as required above. These requirements may be excused only upon good cause shown, upon motion of any party and order of the Court.
- d. MOTION SETTING: Open Motion Calendar:** Motions of 30 minutes or less may be scheduled on the court's Open Motion calendar by contacting Jason Smith at Jason.Smith@keyscourts.net. Parties may appear via CourtCall. Motions in excess of 30 minutes and all evidentiary motions may be specially set by calling Judicial Assistant, Laurel Bogoeff, at (305) 292-3433. No evidentiary motions are permitted on the open motion calendar.
- e. TELEPHONIC PROCEDURE:** All counsel of parties appearing telephonically shall utilize CourtCall (888) 882-6878, unless otherwise directed by the court.
- f. MOTION PROCEDURE:** Motions shall be filed with the Clerk before hearing time is reserved. A courtesy copy of all motions and memoranda in response may be mailed or delivered (no facsimiles) to the Judge's Chambers for delivery at least 5 days before the hearing for all telephonic hearings, or a courtesy copy shall otherwise be brought to the hearing for the court's use. Should the Court find that there is no motion in the Court file at the time of the hearing, the hearing may be cancelled. Motions must be set for hearing within 90 days of filing, except as set forth in paragraph (a), above. Oral argument shall be deemed waived on motions not heard within 90 days of filing. *Allstate Ins. Co. v. Montgomery Ward*, 538 So.2d 974 (Fla. 5th DCA 1989).
- g. ALL MOTIONS AND DEPOSITION DATES TO BE CLEARED:** Counsel shall not schedule a motion hearing or a deposition on a date or time that has not been cleared on all other counsel's calendar(s). The lawyer setting hearing has the responsibility to determine if any other lawyer wishes to appear telephonically, and if so, the matter may only be set on the afternoon telephonic docket. If counsel are unable to agree on dates or times for hearings or depositions, the moving party shall set the dispute for hearing by motion on a time and date provided by the Court's Judicial Assistant. All counsel may be required to personally attend such hearings with their

calendars, and no telephonic appearance will be permitted, absent leave of Court.

- h. MEET AND CONFER REQUIREMENT:** Counsel shall meet and confer regarding all disputed issues before setting a hearing to resolve those issues on motion. Failure to comply with this requirement may result in removal of motions from the docket, rescheduling of motions by the Court, denial of motions, or sanctions, as appropriate.
 - i. EMERGENCY MOTIONS:** An emergency motion is based on an immediate threat to life, limb or property. The Court will set aside all other pending matters to address bona fide emergencies. Scheduling conflicts between counsel, last minute attempts to modify deadlines, and similar issues are not “emergencies” and may not be styled as such to obtain expedited relief from the Court. Counsel are directed to meet and confer regarding such issues and either submit a stipulation and agreed order, or to schedule such matters for hearing on the Court’s regular motion calendar.
- 7. MEDIATION REQUIREMENT:** The Court requires mediation in all civil cases, unless otherwise ordered. This order shall constitute a referral to mediation by the Court pursuant to Fl. R. Civ. Pro. 1.700(1), and the rules, procedures and other requirements set forth in Rules 1.700-1.730, are applicable, including the imposition of sanctions, which includes attorney’s fees and costs, inter alia, regarding all mediations conducted in or regarding this case. The parties will complete mediation at a mutually convenient time prior to the Pre-Trial Conference and attempt to minimize the cost and inconvenience to all parties by coordinating the mediation to occur at the same time as other events that require the presence of the parties in Key West. Previous, unsuccessful attempts at mediation may not be deemed a sufficient basis to be excused from this mediation requirement. Plaintiff’s counsel is directed to coordinate the mediation with all other counsel. All parties are ordered to appear in person for the mediation, and a claims adjuster with full settlement authority is also ordered to appear in person in cases where any portion of the defense is being conducted by an insurance carrier. Failure to comply with this requirement may be sanctioned by the Court as appropriate. If no mediation report showing compliance herewith is in the Court file at the Pretrial Conference, the Court may impose appropriate sanctions, including case dismissal or striking of pleadings.
- 8. MOTIONS IN LIMINE:** These motions must typically be filed and heard as set forth above. The Court will hear motions in limine after these deadlines only upon a showing that the factual basis for the motion could not have been reasonably known by counsel before the general motion deadline.
- 9. TRIAL SETTING AND PRETRIAL CONFERENCE.** Counsel are advised

that this Order is not a Trial Order, but is a Scheduling Order to enforce compliance with time standards set forth below. By Separate Trial Order, this case will be set for trial no less than 30 days after expiration of the General Motion Hearing Deadlines. Counsel are directed to be fully prepared for trial by this date. Counsel shall notify the Court immediately, if trial of this cause is anticipated to be longer than 5 days, by serving and filing a Notice of Anticipated Lengthy Trial estimating the number of trial days, and delivering a copy of same to the Judge's Chambers.

10. CASE MANAGEMENT AND OVER TIME STANDARDS CASES: The court will regularly review the case for case management purposes, and a failure to progress the case as required by the scheduling order may result in dismissal without prejudice on the court's own motion, or such other sanctions or remedies as may be appropriate.

Counsel are advised that discovery will not be reopened, and continuance of the trial date will not be granted for cases that have exceeded these time standards:

(Civil: 18 months from the filing of the Complaint ("FFOC") for jury cases, 12 months FFOC for non-jury cases; Family – Contested: 180 days FFOC, Uncontested: 90 days FFOC)

absent a showing of extraordinary circumstances that justify such a request.

11. SETTLEMENT: Counsel shall file a fully signed, written stipulation and proposed order of dismissal before any settled case will be taken off the Court's docket.

12. FACSIMILE TRANSMISSIONS: Please call the Judicial Assistant in Chambers before initiating a facsimile transmission, to confirm authorization or to receive instructions for alternate methods of document delivery to the Court.

DONE and ORDERED in Chambers at Key West, Monroe County, Florida, this _____ day of _____, 2020.

TIMOTHY J. KOENIG
CIRCUIT JUDGE

cc: