

CASE NO. _____ JUDGE NANCY MARGARET RUSSO

CAPTION _____ v. _____

DATE: _____

THE COURT REQUIRES A COURTESY COPY OF ALL PLEADINGS BE DELIVERED TO CHAMBERS IN 18C ON THE DATE OF FILING; THE USE OF E-FILING DOES NOT SUPERSEDE THE STANDING ORDERS OF THE COURT; FAILURE TO COMPLY WITH ANY PORTION OF THE STANDING ORDERS MAY RESULT IN A DWOP.

PT/CMC held. All non-expert discovery to be completed on or before _____. Settlement conference set for _____ at _____. All counsel, clients, and adjustors, if any, are hereby ordered to appear in person with full settlement authority at the settlement conference. Failure of clients and/or adjustors to appear in person at the settlement conference, in the absence of prior court approval to the contrary, will result in sanctions, including dismissal and or judgment. *See Repp v. Horton* (1974), 44 Ohio App. 2d 63; *See also* Local Rule 21, General Division, Cuyahoga County Court of Common Pleas. Counsel to bring updated pretrial statements to Settlement Conference.

Plaintiff to complete and exchange expert reports on or before ____/____/_____.

Defendant to complete and exchange expert reports on or before ____/____/_____.

Final Pre-trial set ____/____/_____ at _____.

Trial set ____/____/_____ at _____.

Clients, counsel and adjustors to appear in person with authority at Final Pretrial and 1/2 hour before trial for final settlement conference. Failure to appear may result in sanctions.

In an effort to extend courtesy to all parties and their schedules, and to ensure the efficient administration of cases, The Court orders the following:

1. That any requests for extensions of discovery, to continue any scheduled Settlement Conference or Final Pretrial, or to excuse any person from attending a Settlement Conference or Final Pretrial or Trial, **MUST** be made, by motion, no less than 14 days before the discovery cutoff, Settlement Conference, Final Pretrial or Trial.
2. Further, the Court orders that said Motion must be served upon the Court and opposing counsel on the date of filing.
3. Further, the Court advises counsel that absent an exigent circumstance, or unforeseen emergency, it will not entertain motions to continue or excuse appearance not made in accordance with this Order.
4. Further, the Court advises counsel that in the absence of a ruling or notice of court on any pending motion, all dates and Orders remain as set. (DOCKETED NOT POST CARDED/COPIES PROVIDED TO COUNSEL)

STANDING ORDERS FOR FINAL PRETRIALS:
(DOCKETED NOT POSTCARDED/COPIES PROVIDED TO COUNSEL)

Counsel have been provided a copy of this Order and are directed to provide copies and discuss same with their clients.

This matter has been set for final pretrial on _____ at _____. All parties, counsel of record, adjustors, representatives and named insured's MUST be personally present, with full settlement authority.

Any request for telephonic appearance or absence of any person from the final pretrial must be made by written motion, supported by good cause shown, and must be made at least 14 days in advance of the final pretrial. A courtesy copy of any such request is to be delivered to the Court and opposing counsel on the date of filing. Delivery may be made by fax. The Court's fax number is 216-348-4036.

Consideration of settlement is a serious matter which warrants serious and thorough preparation. Set forth herein are the procedures required of counsel, representatives and clients for the final pretrial.

1) EXCHANGE OF DEMAND AND OFFER: The final pretrial is most likely to be productive if the parties have clearly communicated their settlement positions.

Therefore, Plaintiff's counsel is ordered to serve upon defendant(s) counsel and the Court via fax at (216) 348-4036, no less than 14 calendar days before the final pretrial, to-wit: on or before _____, a letter which contains the following:

- a) a brief summary of the evidence and legal principles which the plaintiff asserts supports the liability of the defendant(s);
- b) a brief explanation of why plaintiff will prevail at trial, and why damages or other relief will be awarded at the conclusion of a trial;
- c) the settlement demand; and
- d) a brief explanation of the rationale behind the demand, including an itemization of damages.

Defendant(s) counsel is ordered to serve upon plaintiff(s) counsel and the Court via fax at (216) 348-4036 no less than 7 days before the final pretrial, to-wit: on or before _____, a responsive letter which states the following:

- a) any points in plaintiff's letter, with which the defendant(s) agree;
- b) any points in plaintiff's letter, with which the defendant(s) disagree;
- c) a settlement offer; and
- d) a brief explanation of the rationale behind the offer including an itemization for each component of damages identified by the plaintiff.

Copies of these letters are not to be filed with the Clerk, as these letters are to be used solely to facilitate discussion and the possible resolution of the case. The letters are inadmissible at trial.

2) Absent a specific Order by the Court, excusing the presence of any person at the final pretrial, the following persons are to be personally present, with full settlement authority, scheduled for _____ at _____, to-wit: all counsel of record, all named parties and insured's, adjustors and representatives. If a party is a corporation or governmental entity, the representative of that corporation or entity (other than counsel of record) with full settlement authority must personally attend. If any party requires approval by an insurer or another to settle, then the representative of the insurer, or the person whose approval is needed, must personally appear, with full settlement authority. Named insured's must be present, regardless of any policy language that states their approval is not necessary.

3) **FULL SETTLEMENT AUTHORITY**: Full Settlement Authority means authority to settle up to the demand submitted by the plaintiff in his/her demand letter described herein.

4) **PROCEDURE**: The Court expects the attorneys, parties, adjustors, and party representatives to be fully prepared to participate in the final pretrial discussions. The Court encourages all parties to be willing to fairly assess their positions, and be willing to explore creative means for resolving the case.

5) **STATEMENTS INADMISSIBLE**: The written exchanges, demands and offers required by this Order, and any statements made by any person during settlement discussions or the final pretrial, are not admissible at trial.

The Court expects all persons to address each other with courtesy and respect, and also encourages a frank and honest discussion of the case, with a goal towards resolution.

6) **ISSUES TO BE DISCUSSED AT FINAL PRETRIAL**: All parties, representatives and counsel must be prepared to discuss the following at the final pretrial:

- a) each party's objectives in the litigation;
- b) the issues requiring resolution;
- c) the strengths/weaknesses of each party's respective positions;
- d) the points of agreements and disagreement among the parties, and which are factual, or legal;
- e) impediments to settlement; and
- f) suggested possible solutions for resolution of the case.

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO. _____

)	
)	JUDGE NANCY MARGARET RUSSO
Plaintiff(s))	
)	Courtroom 18-C
vs.)	Telephone: 216-443-8688
)	Fax No: 216-348-4036
)	
)	<u>TRIAL ORDER</u>
Defendant(s))	

IT IS ORDERED AS FOLLOWS:

1. a. **This case is scheduled for final pre-trial on _____ at _____; and trial set _____ at 10:00 a.m. All counsel and clients to report to Court on the dates scheduled above. Final settlement conference to be conducted one-half hour before commencement of trial. All parties, counsel of record, and adjusters to be present in person with full settlement authority for final SC 1/2 hour before Trial. All parties and counsel of record also to be personally present throughout pendency of Trial, absent an Order of Court specifically permitting absence at Trial. Failure to comply with this Court's Orders may result in sanctions, including dismissal or judgment.** All time limitations are calculated on a calendar-day basis unless otherwise noted and all documents, briefs, motions, etc. referred to in this Order are to be hand-delivered to the Court and hand-delivered or faxed to opposing counsel on the day of filing same with the Clerk.

1. b. Counsel have been provided with copies of the Court's final Pretrial Order and are expected to comply with same.

UNDISPUTED FACTS STIPULATIONS / JURY QUESTIONS

2. a. Counsel for the plaintiff shall prepare and submit by _____ to opposing counsel proposed stipulations as to undisputed facts for use at trial and submission to the jury in the event of a jury trial. Opposing counsel shall add to and note disagreement, if any, with the proposed stipulation and to so notify counsel for the plaintiff as to proposed additions, deletions or objections by _____. Counsel shall then meet and put in final form the stipulation as to undisputed facts, reserving any objections as to relevancy, and submit the signed stipulation to the Court, or notify the Court of the absence of stipulations,

by _____. **Stipulation as to the authenticity of all documents/exhibits shall be agreed upon unless credible evidence to the contrary exists.** Traditional boilerplate voir dire questions need not be provided, as the Court conducts the initial, traditional voir dire. Counsel's voir dire will follow the Court's voir dire.

Failure of counsel to comply in good faith with this procedure may result in the imposition of sanctions.

2. b. Any request for a jury waiver must be filed and served upon opposing counsel and the court no less than 14 days before trial.

TRIAL BRIEFS / JURY INSTRUCTIONS / INTERROGATORIES

3. Complete trial briefs shall be filed and delivered to the Court by noon on _____. A complete trial brief includes: (a) a statement of the facts, (b) a discussion of the controlling law, (c) a list of proposed witnesses along with a brief description of the subject matter of the testimony of each witness, (d) an index of all proposed exhibits containing a brief description of each exhibit, and (e) a discussion of any evidentiary issues likely to arise at trial. (Counsel are required to exchange trial briefs with opposing counsel.)

4. ***Witnesses or exhibits not listed in the trial brief shall not testify or be introduced at trial absent a showing of good cause.***

5. **In a jury case, trial briefs also shall include proposed jury instructions and jury interrogatories particularly relative to the case.**

6. Failure to submit proposed jury instructions and/or interrogatories may be deemed a violation of this Order and sanctions may issue.

7. In a bench trial, counsel shall submit Proposed Findings of Fact and Conclusions of Law in addition to Trial Briefs as required in #3 above.

MOTIONS IN LIMINE

8. Motions in Limine or Motions to Admit must be filed with the Court no less than seven (7) days before trial, and service copies are to be hand-delivered to the Court and opposing counsel on the day of filing. Responses, if any, must be filed, and hand-delivered to the Court and opposing counsel no less than 4 days before trial. Motions in Limine and/or Motions to Admit may be considered by the Court, at a later date, upon a showing of good cause.

EXHIBITS

9. One (1) copy of all exhibits shall be furnished to the Court and to opposing counsel by _____. This copy is for the Court's use. The original exhibits are to be introduced by counsel during the course of trial.

10. Exhibits shall be marked before trial with exhibit stickers, which are available from the clerk, on request. The plaintiff shall mark exhibits with numbers, and the defendant shall mark exhibits with letters. If there are multiple parties, numbers or letters shall be used followed by the party's last name (*i.e.*, "1 B Miller" or "A B Jones"). If the defendant has more than twenty-six (26) exhibits, double letters shall be used (*i.e.*, "AA," "BB," "CC," etc.)

11. As part of the exhibits that the parties are required to furnish to the Court pursuant to Paragraph 7 of this Trial Order, each party shall include as one of their exhibits the *curriculum vitae* of any expert(s) that may be called to present evidence or testimony at trial for the use of the Court.

VIDEO DEPOSITIONS / READING DEPOSITIONS INTO EVIDENCE

12. If any party intends to use videotaped testimony at trial, the corresponding deposition transcript upon which this videotaped testimony is based must be filed with the Court at least three (3) *working days* before trial. In addition, the party intending to use videotaped testimony at trial must simultaneously notify opposing counsel of his/her intention to do so by hand-delivery or fax. Further, when a party timely asserts its intention to use videotaped testimony at trial, this Court requires the filing of an index of objections, if any, at least three (3) *working days* before trial. Counsel are to be prepared to assert or withdraw objections in a timely manner during trial.

13. Any party who plans to read a deposition into evidence at trial shall generally abide by the time periods and rules set forth in Paragraph 12 immediately above. As such, any party who plans to read a deposition into evidence shall serve this Court with a copy of said deposition transcript by delivering a copy of same directly to Judge Russo's Bailiff on the 18th floor of the Justice Center within three (3) *working days* before trial. Counsel shall simultaneously notify opposing counsel by fax or hand-delivery. In addition, when a copy of the deposition transcript is delivered to this Court, a cover letter shall accompany the deposition transcript and shall (i) indicate the person(s) who will read the deposition into evidence at trial, (ii) inform the Court that all counsel in the case have been advised within three (3) *working days* before trial of the movant's intention to read a deposition into evidence, and (iii) include an index of all withdrawn objections.

Failure of counsel to comply with any portion of this Trial Order may result in the imposition of sanctions after hearing, including dismissal of the case and/or judgment.

If trial briefs are not filed on date due, and this Court is not notified of dismissal or settlement before 3:00 P.M. on the date trial briefs are due, fines and sanctions may be imposed pursuant to an Order to Show Cause and subsequent finding of contempt. If case is settled or dismissed after trial briefs are filed, counsel must notify this Court via telephone before the scheduled trial date or fines may be imposed pursuant to an Order to Show Cause and subsequent finding of contempt.

** No reply briefs permitted without order of Court.*

DATE: _____

NANCY MARGARET RUSSO, JUDGE

1. ALL PARTIES, COUNSEL AND ADJUSTERS MUST BE PRESENT, WITH FULL AUTHORITY, 1/2 HOUR BEFORE TRIAL. FAILURE TO APPEAR MAY RESULT IN SANCTIONS. COUNSEL ARE ORDERED TO PROVIDE THE COURT WITH HAND-DELIVERED COURTESY COPIES OF ALL STIPULATIONS, TRIAL BRIEFS, EXHIBITS, MOTIONS IN LIMINE, EXHIBITS, JURY INSTRUCTIONS AND INTERROGATORIES AND DEPOSITION OBJECTIONS ON THE DATES THAT THEY ARE DUE.
2. ALL NAMED PARTIES AND COUNSEL OF RECORD TO THE CASE MUST BE PERSONALLY PRESENT FOR AND THROUGHOUT THE TRIAL, UNLESS A MOTION HAS BEEN MADE AND GRANTED, EXCUSING SAID PERSONAL ATTENDANCE.
3. COUNSEL MAY PETITION THIS COURT TO WAIVE ANY REQUIREMENT OF THIS TRIAL ORDER BY FILING AN APPROPRIATE, DETAILED MOTION. ALTHOUGH COUNSEL ARE ENCOURAGED TO DISCUSS ANY PROPOSED MOTION WITH THE OPPOSING COUNSEL AND ATTEMPT TO GAIN CONSENT OF OPPOSING COUNSEL, THE COURT RETAINS DISCRETION ON ALL MATTERS RELATED TO SUCH REQUESTS. STIPULATIONS ARE NOT ACCEPTED AND WILL BE STRICKEN FROM THE RECORD. COMPLIANCE WITH ALL LOCAL AND CIVIL RULES IS EXPECTED. ANY MOTION FOR WAIVER OF ANY PORTION OF THE TRIAL ORDER IS TO BE FILED NO LESS THAN TEN (10) WORKING DAYS BEFORE TRIAL AND COPIES ARE TO BE HAND-DELIVERED OR FAXED TO THE COURT AND OPPOSING COUNSEL ON THE DATE OF FILING.
4. COUNSEL ARE FURTHER INVITED TO CONTACT THIS COURT FOR ASSISTANCE AT ANY TIME, AND THE COURT WILL MAKE ITSELF AVAILABLE TO ASSIST IN THE RESOLUTION OF ANY DISPUTE. THE COURT'S PHONE NUMBER IS 216-443-8688. COUNSEL SHOULD CONTACT THE COURT, BY CONFERENCE CALL, WITH ATTORNEYS REPRESENTED, OR BY JOINT MOTION, SETTING FORTH THE ISSUE AND/OR PROBLEM AS WELL AS A PROPOSED TIME FOR AN EMERGENCY PRETRIAL OR CONFERENCE CALL WITH THE COURT.
5. IN THE EVENT THE COURT IS ENGAGED IN TRIAL AND THIS MATTER IS REFERRED TO A VISITING JUDGE, THE FOLLOWING ORDERS APPLY:
 - 1) THE CASE IS REFERRED TO THE VISITING JUDGE FOR PURPOSES OF TRIAL ONLY. THE ASSIGNED JUDGE, NANCY MARGARET RUSSO, RETAINS JURISDICTION ON ALL POST-TRIAL MOTIONS, EXCEPT MOTIONS FOR JNOV OR NEW TRIAL.
 - 2) COUNSEL ARE ORDERED TO FILE ANY POST-TRIAL MOTIONS, EXCEPT MOTION FOR JNOV OR MOTION FOR NEW TRIAL, WITH THE ASSIGNED JUDGE, TO-WIT: JUDGE NANCY MARGARET RUSSO, FOR PURPOSES OF RULINGS, AND COPIES OF MOTIONS ARE TO BE HAND-DELIVERED TO JUDGE RUSSO'S OFFICE ON THE DAY OF FILING.

- 3) **ANY MOTION FOR JNOV OR MOTION FOR NEW TRIAL IS TO BE FILED WITH THE VISITING JUDGE ASSIGNED FOR PURPOSES OF TRIAL ONLY, AND COURTESY COPIES OF ANY MOTION FOR JNOV OR MOTION FOR NEW TRIAL ARE TO BE DELIVERED TO BOTH JUDGE RUSSO AND THE VISITING JUDGE. THE VISITING JUDGE WILL RULE ON MOTIONS FOR JNOV AND MOTION FOR NEW TRIAL, ONLY.**
6. **COUNSEL HAVE BEEN ADVISED OF THIS ORDER, THE COURT'S STANDING ORDERS AND FINAL PRETRIAL ORDER AND HAVE BEEN PROVIDED COPIES OF SAME. ANY VIOLATION MAY RESULT IN A SHOW CAUSE HEARING. IF CONTEMPT IS PROVEN AFTER HEARING, SANCTIONS WILL ISSUE.**
7. **FAXES IN EXCESS OF 5 PAGES WILL NOT BE ACCEPTED. ANY PLEADING EXCEEDING 5 PAGES IS TO BE HAND-DELIVERED.**

**** Traditional or boilerplate jury instructions ARE NOT TO BE PROVIDED.** However, counsel are required to submit specific proposed jury instructions for each claim, counterclaim and/or cross-claim contained in the pleadings. Counsel to identify stipulated jury instructions with the trial briefs.

COUNSEL ARE ORDERED TO MEET BEFORE TRIAL DATE AND IDENTIFY ALL JURY INSTRUCTIONS THAT ARE AGREED AND ALL IN DISPUTE AND TO SUBMIT BOTH ON DISC IN "WORD" FORMAT ON THE MORNING OF TRIAL. BOILERPLATES ARE NOT TO BE PROVIDED.

STANDING ORDERS RE: CASE MANAGEMENT AND SCHEDULED DATES:
(DOCKETED NOT POSTCARDED/COPIES PROVIDED TO COUNSEL)

Counsel are advised and notified that the following standing Orders shall be in effect and are binding upon all counsel, parties and representations appearing in matters pending before the Honorable Nancy Margaret Russo. Counsel have been provided copies of this Order.

1) **STIPULATIONS**: Consistent with the provisions of the Civil Rules and Local Rule 8(C), this Court will NOT consider or sign stipulations for leave to plead for any matter, other than for an initial leave to respond to a complaint or counterclaim.

2) **PROTECTIVE ORDERS/MOTIONS TO QUASH**: Consistent with the provisions of Civil Rule 26(C), any counsel seeking a protective order must first make a reasonable effort to resolve the matter with the attorney or unrepresented party seeking discovery. Any Motion for Protective Order must also contain a statement reciting the efforts made to resolve the matter. Further, written Motions for Protective Orders and/or Motions to Quash must be timely filed and courtesy copies hand-delivered or faxed to the Court and opposing counsel during normal working hours, on the day of filing. Failure to fully comply may result in a denial of a motion and/or sanctions, where deemed appropriate by the Court. The Court will endeavor to conduct a pretrial to resolve the matter, within 48 hours of receipt.

3) **ATTENDANCE AT SETTLEMENT CONFERENCES AND FINAL PRETRIALS**: All counsel, clients, adjustors or representatives, and named insured's are required to personally appear at any scheduled settlement conference, final pretrial, and 1/2 hour before trial, and must appear with full settlement authority. The Court will only consider requests for telephonic appearance by any person upon receipt of a written motion reciting good cause shown and filed and delivered to the Court and opposing counsel no less than 14 days before the scheduled event. Failure of clients, counsel, adjustors, representatives and/or named insured's to appear with full settlement authority, may result in sanctions deemed appropriate by the Court pursuant to law and Local Rules of Court.

4) This Court has a separate standing Order regarding Final Pretrials. Counsel have been provided copies of this Order and are expected to comply with same.

5) **COMPLIANCE WITH SCHEDULED DEADLINES AND DATES**: Dates for a settlement conference, final pretrial, trial, nonexpert and expert discovery deadlines are set at the CMC/PT, with all counsel present. Compliance with these dates and deadlines are critical to effective and efficient case management, and to increasing public confidence in the legal system. Therefore, counsel are directed that they may not stipulate to alter any deadline or date set by the Court. Any request to change, accelerate or extend any scheduled deadline or date must be made by written motion, supported by good cause shown, and delivered to the Court and opposing counsel no less than 14 days before the scheduled deadline or date. Motions to be filed with the Clerk. Courtesy copy to the Court may be sent by fax.

The Court will entertain oral motions for continuations, accelerations or extensions, only in matters of emergency or unusual situations.

6) **PRESENCE AT TRIAL**: All named parties and counsel of record must be personally present for and throughout trial unless the Court has granted a written motion requesting the nonappearance

of any counsel or party. Any such motion must be filed, supported by good cause shown, and delivered to the Court and opposing counsel no less than 14 days before the scheduled trial date. Delivery to the Court and opposing counsel may be made by fax. Additionally, the Court will conduct a settlement conference 1/2 hour before trial. All parties, counsel, named insured's, adjustors, and representatives are to be personally present with full settlement authority.

7) **REQUESTS FOR CONTINUANCE**: Any request for the continuance of any matter, except a CMC, but including any scheduled pretrial, attorney conference, settlement conference, final pretrial and/or trial must be made by motion, supported by good cause shown, and filed and delivered to the Court and opposing counsel, on the day of filing. Any such written motion must be made no less than 14 days before the scheduled event. Any request for continuance of trial must be signed by the client, comply with Local Rule 17 and contain a copy of the postcard or docket setting any previously scheduled trial date. No continuance can be considered without this information.

8) **REQUESTS FOR EXTENSION**: Any request for extension of any deadline must be made in writing, supported by good cause shown, and filed and delivered to the Court and opposing counsel on the date of filing and must be made no less than 14 days before the scheduled deadline. Delivery to the Court and opposing counsel may be made by fax.

9) **COURTESY COPIES**: Courtesy copies of all pleadings and motions must be delivered to the office of Judge Nancy Margaret Russo, on the date of filing. The Court does not require copies of paper discovery requests or responses.

10) **FAX NUMBERS**: This Court regularly faxes orders and decisions, in order to timely inform counsel of matters pertaining to the case. Therefore, counsel are requested to provide this Court with their fax numbers, by placing same on pleadings filed with Judge Nancy Margaret Russo. The Court's fax number is 216-348-4036. Faxes in excess of 5 pages will not be accepted. Any pleading exceeding 5 pages is to be hand-delivered.

This Court expressly retains jurisdiction over all post-judgment motions, including but not limited to motions to enforce settlement, motions to vacate, motions to compel, motions for costs or attorney fees, and/or motions for sanctions.

In an effort to extend courtesy to all parties and their schedules, and to ensure the efficient administration of cases, The Court orders the following (Docketed not post carded/copies provided to counsel):

1. That any requests for extensions of discovery, to continue any scheduled Settlement Conference or Final Pretrial, or to excuse any person from attending a Settlement Conference or Final Pretrial or Trial, **MUST** be made, by motion, no less than 14 days before the discovery cutoff, Settlement Conference, Final Pretrial or Trial.
2. Further, the Court orders that said Motion must be served upon the Court and opposing counsel on the date of filing. Counsel may perfect this service by faxing a time-stamped copy of the motion to the Court and opposing counsel. The Court's fax number is 216-348-4036.
3. Further, the Court advises counsel that absent an exigent circumstance, or unforeseen emergency, it will not entertain motions to continue or excuse appearance not made in accordance with this Order.
4. Further, the Court advised counsel that in the absence of a ruling or notice of Court, on any pending motion, all dates and Orders remain as set.

*Rev. 09/20/21
Forms/CMC Order*