



**CLEVELAND METROPOLITAN BAR ASSOCIATION ENDORSED CASE MANAGEMENT ORDER**

**THE FOLLOWING PROCEDURES SHALL APPLY TO THIS ACTION AND, TO THE EXTENT INCONSISTENT WITH ANY PROVISION OF THE CUYAHOGA COUNTY COMMON PLEAS COURT LOCAL RULES, THESE PROCEDURES SUPERSEDE SUCH PROVISION.**

Part I: Case Management Conference.

- (A) Within ninety (90) days after suit is commenced, the case shall be set by the Court for a Case Management Conference (CMC) to establish case management procedures and to prepare the case for an effective final pretrial. At that time the Court will take appropriate action on service, leaves to plead, time limitations for discovery, scheduling a date for the pretrial hearing and any other steps warranted under the circumstances.
- (B) At the Court's discretion, the CMC may be conducted by the judge or a member of the Court's staff. If for any reason a party wishes to address any issue directly with the judge, the party must contact the Court's bailiff at least seven (7) days in advance and the CMC shall then be conducted by the judge.
- (C) The CMC may be conducted in person or by telephone according to the Court's preference. All counsel attending must have full authority to enter into a binding Case Management Order. Parties are not required to be present, unless the Court otherwise orders.
- (D) Notice of the CMC shall be given to all counsel of record by email and/or telephone not less than fourteen (14) days prior to the conference. Any application for a continuance of the conference shall be addressed to the Court.
- (E) If any counsel of record wishes to attend and is not available at the time scheduled by the Court, and if he or she is unwilling or unable to send other counsel authorized to enter into a binding Case Management Order, then that counsel shall have the obligation to arrange with the concurrence of all other counsel and the Court a rescheduled date for the CMC, which shall take place within thirty (30) days of the originally scheduled CMC. All other counsel must reasonably cooperate with efforts to reschedule the CMC. Failure to attempt in good faith to obtain such concurrence will result in the CMC being held as originally scheduled at which a Case Management Order may be entered binding all parties.

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- (F) The following decisions shall be made at the CMC and all counsel attending must have full authority to enter into a binding Case Management Order:
- (1) Each case shall be categorized in terms of type (*i.e.*, personal injury, contract, malpractice, commercial, collection, products liability etc.); complexity of facts and legal issues presented; anticipated difficulty in obtaining and completing discovery; and dollar amount in controversy.
  - (2) Based on information determined by discussion of issues in (F)(1), above, a definite discovery schedule shall be agreed upon by all parties for the completion of all discovery.
  - (3) Determination shall be made concerning immediate assignment of the case to arbitration upon agreement of counsel or upon order of the Court if the Court personally conducts the CMC. The Court shall set a date certain as to when the case shall be referred to arbitration. The Court may also set a date for trial in the event an appeal is taken from the arbitration.
  - (4) A definite date for exchange of expert witness reports shall be determined pursuant to Rule 21.1. The Case Management Order shall require the party with the burden of proof on a particular issue to produce an expert report as to that issue at least thirty (30) days before the party defending as to that issue.
  - (5) Issues relating to electronically stored information shall be addressed, as set forth in Rule 21.3.
  - (6) A definite date for the filing of all motions which date shall not be later than seven (7) days before the final pretrial conference.
  - (7) The date for the final pretrial conference shall be set by the Court.
  - (8) The date for the trial shall be set by the Court, unless, in the Court's discretion, the setting of a trial date is not yet appropriate at the CMC.
- (G) At the conclusion of the CMC, a Case Management Order shall be prepared.. This order shall include definite dates for Part I (F)(1)-(8) of this rule where applicable and shall be journalized and binding on all parties.
- (H) If any new parties are added to the litigation subsequent to the Case Management Order, then the Court shall set another CMC with all parties following the requirements of Part I (A)-(G) of this rule. If necessary, a new The Case Management Order shall be issued.

### PART II: Motions for Summary Judgment.

- (A) If any of the parties anticipates filing a Motion for Summary Judgment, a briefing schedule shall be incorporated into the Case Management Order which shall include filing deadlines and a ruling date by which parties can expect the Court's ruling. Such ruling date shall be set for the ruling to be made no less than thirty (30) days prior to the scheduled trial date. In the event no trial date is set at the CMC, any subsequent trial date will be scheduled to occur at least thirty (30) days after the ruling date.
- (B) Automatic Continuance: In any instance where the Court, for any reason, is unable to rule by the ruling date the Court shall continue the trial date for at least sixty (60) days. However, if either party moves for, and is granted, an extension of the briefing schedule which necessitates extending the Court's ruling date then no automatic continuance of the trial date will be given because of the Court's inability to rule by the original ruling date. The court may nonetheless, in its discretion, on motion of any party or on its own motion, continue the trial date in such circumstances.

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- (C) Oral argument on Motions for Summary Judgment: At the request of either party, the Court may schedule and conduct an oral argument on pending Motions for Summary Judgment. The time parameters for argument shall be set by the judge assigned to the case. Oral arguments which shall take place on the record in open court.

### PART III: Motions to Continue

- (A) The Court shall liberally grant agreed-upon extensions of deadlines incorporated into the Case Management Order if the parties adhere to the following precepts: (1) the parties request the proposed extension in advance of the deadline; and (2) the proposed extension will not necessitate a continuance of the original trial date.
- (B) All motions to continue the trial date shall be made in writing and captioned as "Motion to Continue the Trial Date." If all parties, or certain parties, agree to the motion to continue the trial date, such agreement shall be reflected in the caption. The Court will not rule on ambiguously titled motions which are, in effect, motions for a continuance of the trial date, *i.e.* Motion to Reset Case Management Order, etc. Any motion filed which does not fulfill the criteria contained in this Rule shall be dismissed by the Court as a violation of this Rule.

### PART IV: Pre-trial and Settlement Conferences.

- (A) A pretrial conference shall be conducted in all civil cases prior to trial, except in actions for injunctions, foreclosures, marshaling of liens, partition, receiverships, and appeals from administrative agencies.
- (B) Upon order of the Court or request of any party, the Court shall set a day for a settlement conference. All parties with full settlement authority must be present or, with advance permission of the Court, be available by telephone. A party shall be entitled to request only one settlement conference.
- (C) Any judge presiding at a pre-trial or settlement conference or trial shall have authority:
- (1) After notice, to dismiss an action without prejudice for want of prosecution upon failure of plaintiff and/or plaintiff's counsel to appear in person at any pre-trial or settlement conference ordered by the court.
  - (2) After notice, to order the plaintiff to proceed with the case and decide and determine all matters *ex parte* upon failure of the defendant to appear in person or by counsel at any pre-trial or settlement conference or trial set by the court.
  - (3) The failure of an attorney to appear within thirty (30) minutes of a scheduled settlement or pre-trial conference may subject the attorney to sanctions in the amount of Two Hundred Fifty Dollars (\$250.00) unless good cause is shown. If the court awards sanctions, the attorney is personally responsible for payment of the sanction.
  - (4) Sanctions should not be imposed until a reasonable attempt is made by the court or opposing counsel present at the settlement or pre-trial conference to contact the missing counsel to determine whether that counsel's non-compliance with these rules can be reasonably explained.

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### PART V: Final Pre-trials

Final pre-trials provide the Court with the opportunity to be assured that the parties have complied with all obligations under the Case Management Order and are prepared to proceed to trial. At the final pre-trial, the Court may inquire into whether the parties have explored settlement options. Parties should initiate settlement discussions well in advance of the final pre-trial. On some occasions, a judge's trial schedule may prevent the judge from conducting the final pre-trial in person. Therefore, if the attorneys believe it is absolutely necessary that the assigned judge conduct the final pre-trial in person, the parties are directed to contact the judicial staff attorney twenty-four (24) hours or more in advance to make such a request. In any instance where the judge has a conflict, the Court will reset the final pre-trial in order to allow the judge to preside in person.

- (A) The purpose of this conference is to reach an amicable settlement, if possible; to narrow factual and legal issues by stipulation or motions; and to set a date certain for trial. All final pretrial conferences shall be conducted by the assigned Judge.
- (B) All plaintiffs must be present or, with permission of the Court, be available by telephone with full settlement authority. Each defendant or a representative of each defendant must be present or, with permission of the Court, be available by telephone with full settlement authority. If the real party in interest is an insurance company, common carrier, corporation, or other artificial legal entity, then the chosen representative must have full authority to negotiate the claim to the full extent of plaintiff's demand. Plaintiff's demand must be submitted to counsel for defendant at least 14 days prior to the final pretrial conference.
- (C) Counsel attending the conference must have complete authority to stipulate on items of evidence and admissions.
- (D) If the Court concludes that the prospect of settlement does not warrant further Court supervised negotiations, then the Court shall act on any other matters which come before it at that time and efforts shall be made to narrow legal issues, to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of trial. The Court may enter a pretrial order to become part of the record of the case embracing all stipulations, admissions, and other matters that have come before it. The Court shall at that time fix a date for the filing of trial briefs, exhibit lists, motions in limine, and jury instructions.

### PART VI: Discovery Disputes.

The Court expects attorneys to adhere to their obligations under Civil Rule 37, Local Rule 11 (F) and Local Rule 21.3 to attempt to resolve discovery disputes with opposing counsel prior to contacting the Court. In instances where parties have reached an impasse, judges may, in the Case Management Order, require parties to contact the Court for a hearing on the dispute prior to filing a Motion to Compel. Parties are directed to visit the Court's website to discover their individual judge's preferences in dealing with discovery disputes.