

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR HARDEE, HIGHLANDS AND POLK COUNTIES, Florida Court System

ADMINISTRATIVE ORDER NO. 3-5.5

**ORDER PROVIDING FOR CASE MANAGEMENT/  
PRETRIAL CONFERENCE IN CIVIL CASES**

WHEREAS, Rule 1.200, Fla. R. Civ. P., sets out procedures for the holding of Case Management Conferences and Pretrial Conferences as well as Notice concerning such proceedings, and

WHEREAS, Rule 1.200(c), specifically states: "Orders setting pretrial conferences shall be uniform throughout the territorial jurisdiction of the court." and

WHEREAS the Bench/Bar Committee for the Tenth Circuit, in conjunction with the Conference of Judges of the Tenth Judicial Circuit, has recommended that the attached forms be used throughout the Circuit, in order to comply with the corresponding rules, and in order to achieve uniformity within the circuit, it is therefore

ORDERED AND DIRECTED:

That the form orders attached hereto will be used in the pretrial procedures for setting case management conferences, pretrial conferences, trial dates in non-jury and jury cases, and in referring cases to mediation;

That these uniform orders shall remain in effect until modified by further order of this Court.

Administrative Order No. 3-5.4 entered September 21, 2005 is hereby VACATED.

This Order shall have effect on January 1, 2006.

DONE AND ORDERED on this 22<sup>nd</sup> day of December, 2005.

RONALD A. HERRING

Chief Judge

Attachments: PDF Format

[Order Directing Mediation – "Attachment A"](#)

[Order Setting Case Management Conference – "Attachment B"](#)

[Order Setting Pretrial Conference and Jury Trial and Directing Mediation – "Attachment C" Amended 8-20-09](#)

[Order Setting Pretrial Conference and Non-Jury Trial – "Attachment D" Amended 8-20-09](#)

[Order Setting Pretrial Conference, Jury Trial and Discovery Deadline \(Eminent Domain Cases\) – "Attachment E"](#)

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT**  
**IN AND FOR HARDEE, HIGHLANDS AND POLK COUNTIES, FLORIDA**

Plaintiff(s),

VS.

Case Number: GC-G-

Defendant(s).

**ORDER DIRECTING MEDIATION**

Pursuant to Rules 1.700 through 1.780, Florida Rules of Civil Procedure, it is ORDERED:

- 1. Mediation.** This matter is referred to Mediation.
- 2. Appointment.** Plaintiffs attorney shall attempt an agreement with all concerned as to the appointment of a certified Mediator and the Mediator's compensation. If agreement is achieved, Plaintiffs attorney shall file a notice making the agreement a matter of record. If the parties cannot agree *within ten (10) days of the date of this Order*, Plaintiffs attorney shall notify the Court to that effect and the Court will enter an Order appointing the Mediator and setting the compensation.
- 3. Scheduling.** Plaintiffs attorney shall a) schedule the Mediation Conference at an agreeable time sufficiently in advance of the Pretrial Conference, and b) confirm the date, time and place of the Mediation Conference by letter to all concerned. The Mediation Conference shall occur prior to the Pretrial Conference.
- 4. Consultation.** *At least ten (10) days in advance of the Mediation*, Plaintiffs attorney shall schedule a consultation for all counsel, in person or by telephone, for the purpose of presenting a Statement of the Case to the Mediator *at least five (5) days in advance of the Mediation*. The statement of the case shall contain a) a concise paragraph agreed to by the parties describing the overall case, b) a paragraph from each party containing the contentions of that party, and c) a paragraph from Plaintiff concerning the relief sought. These paragraphs shall be brief and to the point and of the kind utilized later in the Pretrial Stipulation for the trial judge to read to the jury.

**5. Attendance.** Each party shall be represented at the conference by the person who will try the case. The parties must also be present. A corporate party must be represented by a managing agent. An insured party must also have a representative present with full authority (not limited authority) to settle the case. A participant who fails to attend, leaves the Mediation before the Mediator declares an impasse, or a party in attendance with limited authority, is subject to sanctions by the Court. Sanctions may include taxing of fees and costs for the participants and the Mediator.

**6. Privilege.** All discussions, representations and statements made at the Mediation Conference shall be privileged as settlement negotiations and nothing related to the conference shall be admitted at trial or be subject to discovery.

**A.** In the event the parties settle the case, the agreement shall be immediately reduced to writing.

**7. Result.** The Mediator shall provide the Court with a Mediation Report 5 days prior to the Pretrial Conference, unless otherwise ordered by the court.

IT IS ORDERED that all communications noticing court proceedings including, but not limited to, subpoenas for trial, jury summons, notice of hearings, notice for depositions and all other court related proceedings shall provide that persons with a disability who need a special accommodation shall contact the Office of the Court Administrator to insure that reasonable accommodations are available. Such communications noticing court proceedings shall include the following substantive language:

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 Office of the Court Administrator, (863) 534-4690, within two (2) working days of your receipt of this (describe notice); if you are hearing or voice impaired, call TDD (863) 534-7777 or Florida Relay Service (800) 955-8770.

DONE AND ORDERED at Polk County, Florida this \_\_\_\_\_ day of 2005.

---

, Circuit Judge

Copies furnished to:

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT**  
**IN AND FOR HARDEE, HIGHLANDS AND POLK COUNTIES, FLORIDA**

Plaintiff(s),

VS.

Case Number: GC-G-

Defendant(s).

**ORDER SETTING CASE MANAGEMENT CONFERENCE**

Pursuant to Rule 1.200, Florida Rules of Civil Procedure, and Rule 2.085, Florida Rules of Judicial Administration, it is ORDERED:

**1. Scheduling.** A Case Management Conference is set for \_\_\_\_\_ .m. for \_\_\_\_\_ minutes on \_\_\_\_\_, 20\_\_\_\_\_ in \_\_\_\_\_ County Courthouse, \_\_\_\_\_, Florida. Plaintiff shall immediately notify parties other than those listed in the mailing certificate of this Case Management Conference. Motions may be set for this time only if first cleared with the court calendar.

**2. Disclosure.** *At least twenty days before the Case Management Conference*, each party shall provide the other parties with a witness list containing the names and addresses (sufficient for service of subpoena) "of all persons believed or known ... to have any knowledge concerning any of the issues raised by the pleadings and specify the subject matter about which the witness has knowledge." Fla. R. Civ. P., app. Forms 1,2. The subject matter about which the witness has knowledge is particularly important. The purpose of this disclosure is to enable each party to make informed decisions as to future discovery and accurately respond to the Court's inquiries found in Fla. R. Civ. P. 1.200(a)(1) - (10).

**3. Consultation.** *At least five days before the Case Management Conference*, Plaintiff shall schedule a consultation for all counsel, in person or by telephone, for the purpose of reviewing the witness lists and achieving as much agreement as possible concerning responses to the Court's inquiries on the items found in the Rules.

**4. Attendance.** Each party shall be represented at the conference by the person who will try the case. In addition to the items found in Rule 1.200(a), Florida Rules of Civil

Procedure, the parties will be expected to respond the Court's inquiries concerning time standards as found in Rule 2.085(d), Florida Rules of Judicial Administration. In this regard, counsel shall bring with them their calendars for the next twelve months.

**5. Cancellation.** If counsel are able to represent to the Court that a Case Management Conference would not be of assistance for the efficient handling of the case, and that the Rule 2.085(d) time standards can be met without a Case Management Conference, then a stipulation to that effect signed by all counsel may be submitted, *within 10 (ten) days of the date of this Order*, along with a proposed order, for consideration by the Court.

IT IS ORDERED that all communications noticing court proceedings including, but not limited to, subpoenas for trial, jury summons, notice of hearings, notice for depositions and all other court related proceedings shall provide that persons with a disability who need a special accommodation shall contact the Office of the Court Administrator to insure that reasonable accommodations are available. Such communications noticing court proceedings shall include the following substantive language:

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 Office of the Court Administrator, (863) 534-4690, within two (2) working days of your receipt of this (describe notice); if you are hearing or voice impaired, call TDD (863) 534-7777 or Florida Relay Service (800) 955-8770.

DONE AND ORDERED at Polk County, Florida this \_\_\_\_\_ day of 2005.

\_\_\_\_\_  
, Circuit Judge

Copies furnished to:

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR POLK COUNTY, FLORIDA**

**Plaintiff(s),**

**-vs-**

**Case Number:  
Section:**

**Defendant(s).**

\_\_\_\_\_ /

**ORDER SETTING PRETRIAL CONFERENCE AND JURY TRIAL  
AND DIRECTING MEDIATION**

Pursuant to Florida Rules of Civil Procedure 1.200(a)(2) and 1.440(c), the following is hereby **ORDERED:**

**1. SCHEDULE.** The **Pretrial Conference** is set on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m., before the Honorable \_\_\_\_\_, Circuit Judge, in **Hearing Room \_\_\_\_\_, \_\_\_\_\_ Floor, \_\_\_\_\_ Elevator, \_\_\_\_\_ Tower, in the Polk County Courthouse, 255 N. Broadway Ave., Bartow, Florida.**

The jury trial in this cause has been set for \_\_\_\_\_ day(s) during the two-week trial block beginning on **Monday, \_\_\_\_\_, at 9:00 a.m., in Courtroom \_\_\_\_\_, \_\_\_\_\_ Elevator, \_\_\_\_\_ Tower, Polk County Courthouse, 255 N. Broadway Ave., Bartow, Florida.**

**2. CONFLICTS.** ***Within 10 days of this Order,*** counsel shall notify the Court in writing if (a) inadequate time has been allowed for trial, if a scheduling conflict exists, (b) if discovery cannot be completed by the Pretrial Conference as ordered in paragraph 7 below, or (c) if alternative deadlines or case management are needed, whereupon a Case Management Conference may be set by counsel or ordered by the Court. The Court recognizes that most scheduling conflicts will resolve themselves. However, if a conflict about which the Court has been notified persists, it could later be a valid ground for a continuance.

**3. CONTINUANCES.** No continuance will be granted unless good cause is demonstrated in writing, signed by counsel and the parties he or she represents. *See* Florida Rules of Judicial Administration, Rule 2.085(d). Conflicts about which the Court has been notified pursuant to Paragraph 2 will be persuasive. Conflicts arising after the date of this Order will not be persuasive.

**4. DISCLOSURE.** ***Within 30 days of this Order,*** each party shall provide the other with:

- a. A witness list of the names and addresses (sufficient for service of subpoena), "of all persons believed or known... to have any knowledge concerning any of the issues raised by the pleadings and specify the subject matter about which the witness has knowledge" *Florida Rules of Civil Procedure, Appendix, Standard Interrogatories Forms 1 and 2.* The subject matter about which the witness has

knowledge is particularly important. The purpose of this disclosure is to enable each party to accurately respond to the Court's inquiries found in *Florida Rules of Civil Procedure 1.200(b)(1)-(5)*.

- b. A list of all experts that will be called to testify at trial so that expert discovery is completed by the time of the Pretrial Conference. **Not later than 60 days before the Pretrial conference**, the parties shall exchange the names and addresses of all experts, that will be called to testify at trial, along with the expert's specialty, the subject matter on which the expert is expected to testify, and the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. Please see 2. (b) and (c) above.
- c. A list of all potential exhibits, copies of which shall be provided promptly to opposing counsel. Newly discovered exhibits shall be immediately provided.

Failure to timely comply with the above may result in the exclusion of said witness and/or use of said exhibit at trial.

**5. CONSULTATION.** At least 15 days before Pretrial Conference, Plaintiff's counsel shall conduct a consultation, by telephone or in person, with all counsel cooperating in order to:

- a. Discuss settlement
- b. Arrange to examine all trial exhibits and demonstrative aids.
- c. Review witness lists with the goal of identifying those witnesses each party reasonably anticipates will be called to testify at trial.
- d. Review the five (5) items found in Rule 1.200(b), Fla.R.Civ.P., in preparation for the Pretrial Conference.
- e. Prepare mutual stipulation and proposed Pretrial Order as required below.

**6. MUTUAL STIPULATION AND PROPOSED PRETRIAL ORDER.** At least three working days before Pretrial Conference, a Stipulation (in one document) shall be submitted directly to the Court's Chambers either by U.S. mail or by hand delivery, **not** by facsimile. Plaintiff's counsel shall have the responsibility for drafting the Stipulation which shall contain:

- a. A statement of the case agreed to by the parties containing:
  - 1. Paragraph, agreed to by the parties, describing the overall case.
  - 2. Paragraph from each party containing the contentions of that party.
  - 3. Paragraph from the Plaintiff concerning the relief sought.These paragraphs shall be brief and to the point. In jury trials, the Court will probably read these paragraphs to the jury. (Counsel may simply update the Statement of the Case provided for mediation.)
- b. A list of pleadings upon which the case will go to trial.
- c. A statement of
  - 1. Facts admitted by the parties
  - 2. Factual issues remaining to be litigated.

- d. A statement of
  - 1. All matters requiring action by the Court
  - 2. Legal and evidentiary issues likely to arise at trial
  - 3. Anticipated special instructions beyond standard instructions
- e. A list of witnesses that each party reasonably anticipates will be called to testify at trial. (Previously submitted lists, as updated, may be attached.)
- f. A list of all exhibits and demonstrative aids. Those exhibits and aids the parties agree are admissible or acceptable for use at trial shall be marked with an asterisk.
- g. An indication of party will securing the court reporter, if any.
- h. A statement confirming and attesting that counsel have complied with paragraphs 4, 5 and 12 of this Order.
- i. The signatures of counsel for all parties.

Plaintiff's counsel, unless otherwise directed by the Court, will have responsibility for drafting the proposed Pretrial Order which shall contain:

- a. The incorporated mutual Pretrial Stipulation.
- b. The Court's rulings upon all matters requiring Court action.

**The Pretrial Order shall thereafter control the course of action.** Fla.R.Civ.P. 1.200(d).

**7. DISCOVERY.** The Court directs that all discovery shall be completed before Pretrial Conference. Discovery conducted thereafter will be at the risk of counsel. No continuances will be granted because of facts arising from discovery conducted after the Pretrial Conference.

**8. MOTIONS.** No Motions will be heard at or after the Pretrial Conference absent compelling circumstances and consent of the Court.

**9. ATTENDANCE.** Each party shall be represented at the Pretrial Conference by the person who will try the case. In addition to the items in the Pretrial Stipulation, each participant must be prepared to discuss the five (5) items of *Fla.R.Civ.P. 1.200(b)*. *If the person attending the Pretrial Conference is not authorized to enter into binding stipulations concerning trial matters [i.e., needs to confer with the client before entering into any agreements concerning matters that will expedite the progress of the trial; See, Fla. R. Civ. P. 1.200(b)], then the party must also be present.*

**10. JURY INSTRUCTIONS.** Plaintiff shall provide a complete set of proposed jury instructions. Defendant shall provide only special instructions not included in Plaintiff's submission. The proposed instructions will be submitted at such time as the Judge shall direct. **All instructions will be in a form suitable for submission to the jury.** (The face sheet is to identify the proposing party and contain a numbered list of the proposed instructions. The instructions may be correspondingly numbered. A party may attach citations of authority to individual instructions. No such information shall be contained on the face of the instructions.)

**11. SETTLEMENT.** **In the event this case settles, Plaintiff's counsel shall immediately notify** the undersigned judge by written fax memorandum (863-534-4094) and/or by phone call (863-534-5860).

## 12. MEDIATION:

- a. This case is ordered to mediation.
- b. Plaintiff's counsel shall seek agreement with all concerned as to a certified mediator their compensation. If achieved, Plaintiff's counsel shall file a notice containing this information in the record. If the parties cannot agree within ten (10) days of this Order, Plaintiff's counsel shall notify the Court which will enter an Order appointing the mediator and set compensation.
- c. Plaintiff's attorney shall:
  - (1) Schedule the mediation conference at a time agreeable to all concerned sufficiently in advance of the Pretrial conference.
  - (2) Confirm the date, time and place of the mediation conference by letter to all concerned. The mediation conference shall occur prior to the Pretrial Conference.
- d. At last ten (10) days in advance of the mediation conference, Plaintiff's attorney shall schedule a conference for all counsel, either in person or by telephone, for the purpose of presenting a Statement of the Case to the mediator at least five (5) days in advance of the mediation. The statement of the case shall contain:
  - (1) A concise paragraph agreed to by the parties describing the overall case;
  - (2) A paragraph from each party containing the contentions of that party; and
  - (3) A paragraph from Plaintiff concerning the relief sought.These paragraphs shall be brief and to the point and of the kind utilized later in the Pretrial Stipulation for the trial judge to read to the jury.
- e. Each party shall be represented at the mediation conference by the person who will try the case. The parties **must** also be present. A corporate party **must** be represented by a managing agent. An insured party **must** also have a representative present with **full** (not limited) authority to settle the case. A participant who fails to attend, or leaves the mediation conference before the mediator declares the conference ended, or a party in attendance with limited authority, is subject to sanctions by the Court. Sanctions may include taxing of fees and costs for the participants and the mediator.
- f. All discussions, representations and statements made at the mediation conference shall be absolutely privileged and nothing related to the conference shall be admitted at trial or be subject to discovery.
- g. In the event the parties settle the case, a binding agreement shall be immediately reduced to writing and executed by counsel and all parties before the conference ends.
- h. FEES AND COSTS. Plaintiff's counsel shall assure that all fees and costs of mediation have been paid before distribution of any settlement proceeds. If the case is to proceed to trial, these expenses shall be satisfied prior to the trial date.
- i. The mediator shall provide the Court with a mediation report five (5) days before Pretrial Conference, unless otherwise ordered by the Court.

**13. COMMUNICATIONS NOTICING COURT PROCEEDINGS:** All communications noticing Court proceedings including, but not limited to, subpoenas for trial, jury summons, notices of hearings, notices for depositions and all other Court- related proceedings shall provide that a person with a disability who needs a special accommodation shall contact the Office of the Court Administrator to insure that reasonable accommodations are available. Such communications noting Court proceedings shall include the following substantive language:

*\*\*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 Office of the Court Administrator, (863)534-4690, within two (2) working days of your receipt of this (describe notice); if you are hearing or voice impaired, call TDD (863)534-7777 or Florida Relay Service 711.\*\**

**DONE AND ORDERED** in Chambers at Bartow, Polk County, Florida, this \_\_\_\_ day of \_\_\_\_, 200\_\_.

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CIRCUIT JUDGE

Copies furnished to:

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR POLK COUNTY, FLORIDA

Plaintiff(s),

-vs-

Case Number:  
Section:

Defendant(s).

\_\_\_\_\_ /

**ORDER SETTING PRETRIAL CONFERENCE AND NON-JURY TRIAL  
AND DIRECTING MEDIATION**

Pursuant to Florida Rules of Civil Procedure 1.200(a)(2) and 1.440(c), the following is hereby **ORDERED**:

**1. SCHEDULE.** The **Pretrial Conference** is set on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m., before the Honorable \_\_\_\_\_, Circuit Judge, in Hearing Room, \_\_\_\_\_ Floor, \_\_\_\_\_ Elevator, \_\_\_\_\_ Tower, in the Polk County Courthouse, 255 N. Broadway Ave., Bartow, Florida.

The non-jury trial in this cause has been set for \_\_\_\_\_ day(s) on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m., in Courtroom \_\_\_\_\_, \_\_\_\_\_ Elevator, \_\_\_\_\_ Tower, Polk County Courthouse, 255 N. Broadway Ave., Bartow, Florida.

**2. CONFLICTS.** *Within 10 days of this Order*, counsel shall notify the Court in writing if inadequate time has been allowed for trial, if a scheduling conflict exists, *or if discovery cannot be completed by the Pretrial Conference as ordered in paragraph 7 below, whereupon a Case Management Conference may be set by counsel or ordered by the Court.* The Court recognizes that most scheduling conflicts will resolve themselves. However, if a conflict about which the Court has been notified persists, it could later be a valid ground for a continuance.

**3. CONTINUANCES.** No continuance will be granted unless dire need is demonstrated in writing, signed by counsel and the parties he or she represents. Conflicts about which the Court has been notified pursuant to Paragraph 2 will be persuasive. Conflicts arising after the date of this Order will not be persuasive.

**4. DISCLOSURE.** *Within 30 days of this Order*, each party shall provide the other with:

- a. A witness list of the names and addresses (sufficient for service of subpoena), "of all persons believed or known... to have any knowledge concerning any of the issues raised by the pleadings and specify the subject matter about which the witness has knowledge" -Fla.R.Civ.P., app. Forms 1,2. The subject matter about which the witness has knowledge is particularly important. The purpose of this disclosure is to enable each party to accurately respond to the Court's inquiries found in Fla.R.Civ.P. 1.200(b)(1)-(5).
- b. A list of all experts that will be called to testify at trial so that expert discovery is completed by the time of the Pretrial Conference. **Not later than 60 days before the Pretrial conference**, the parties shall exchange the names and addresses of all experts, that will be called to testify at trial, along with the expert's specialty, the subject matter on which the expert is expected to testify, and the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

- c. A list of all potential exhibits, copies of which shall be provided promptly to opposing counsel. Newly discovered exhibits shall be immediately provided.

Failure to timely comply with the above may result in the exclusion of said witness and/or use of said exhibit at trial.

**5. CONSULTATION.** At least 15 days before Pretrial Conference, Plaintiff's counsel shall conduct a consultation, by telephone or in person, with all counsel cooperating in order to:

- a. Discuss settlement
- b. Arrange to examine all trial exhibits and demonstrative aids.
- c. Review witness lists with the goal of identifying those witnesses each party reasonably anticipates will be called to testify at trial.
- d. Review the five (5) items found in Rule 1.200(b), Fla.R.Civ.P., in preparation for the Pretrial Conference.
- e. Prepare mutual stipulation and proposed Pretrial Order as required below.

**6. MUTUAL STIPULATION AND PROPOSED PRETRIAL ORDER.** At least three working days before Pretrial Conference, a Stipulation (in one document) shall be submitted directly to the Court's Chambers either by U.S. mail or by hand delivery, **not** by facsimile. Plaintiff's counsel shall have the responsibility for drafting the Stipulation which shall contain:

- a. A statement of the case agreed to by the parties containing:
  1. Paragraph, agreed to by the parties, describing the overall case.
  2. Paragraph from each party containing the contentions of that party.
  3. Paragraph from the Plaintiff concerning the relief sought.These paragraphs shall be brief and to the point. In jury trials, the Court will probably read these paragraphs to the jury. (Counsel may simply update the Statement of the Case provided for mediation.)
- b. A list of pleadings upon which the case will go to trial.
- c. A statement of
  1. Facts admitted by the parties
  2. Factual issues remaining to be litigated.
- d. A statement of
  1. All matters requiring action by the Court
  2. Legal and evidentiary issues likely to arise at trial
  3. Anticipated special instructions beyond standard instructions
- e. A list of witnesses that each party reasonably anticipates will be called to testify at trial. (Previously submitted lists, as updated, may be attached.)
- f. A list of all exhibits and demonstrative aids. Those exhibits and aids the parties agree are admissible or acceptable for use at trial shall be marked with an asterisk.
- g. An indication of party will securing the court reporter, if any.
- h. A statement confirming and attesting that counsel have complied with paragraphs 4, 5 and 12 of this Order.
- i. The signatures of counsel for all parties.

Plaintiff's counsel, unless otherwise directed by the Court, will have responsibility for drafting the proposed Pretrial Order which shall contain:

- a. The incorporated mutual Pretrial Stipulation.
- b. The Court's rulings upon all matters requiring Court action.

**The Pretrial Order shall thereafter control the course of action.** Fla.R.Civ.P. 1.200(d).

**7. DISCOVERY.** The Court directs that all discovery shall be completed before Pre Trial Conference.

Discovery conducted thereafter will be at the risk of counsel. No continuances will be granted because of facts arising from discovery conducted after the Pretrial Conference.

**8. MOTIONS.** No Motions will be heard at or after the Pretrial Conference absent compelling circumstances and consent of the Court.

**9. ATTENDANCE.** Each party shall be represented at the Pretrial Conference by the person who will try the case. In addition to the items in the Pretrial Stipulation, each participant must be prepared to discuss the five (5) items of *Fla.R.Civ.P. 1.200(b)*. *If the person attending the Pretrial Conference is not authorized to enter into binding stipulations concerning anticipated trial matters [i.e., needs to confer with the client before entering into any agreements concerning matters that will expedite the progress of the trial; See, Fla. R. Civ. P. 1.200(b)], then the party must also be present.*

**10. SETTLEMENT.** In the event this case settles, Plaintiff's counsel shall immediately notify the undersigned judge by written fax memorandum (863-534-\_\_\_\_), and/or by phone call (863-534-\_\_\_\_).

#### **11. MEDIATION:**

- a. This case is ordered to mediation.
- b. Plaintiff's counsel shall seek agreement with all concerned as to a certified mediator their compensation. If achieved, Plaintiff's counsel shall file a notice containing this information in the record. If the parties cannot agree within ten (10) days of this Order, Plaintiff's counsel shall notify the Court which will enter an Order appointing the mediator and set compensation.
- c. Plaintiff's attorney shall
  - (1) Schedule the mediation conference at a time agreeable to all concerned sufficiently in advance of the Pretrial conference.
  - (2) Confirm the date, time and place of the mediation conference by letter to all concerned. The mediation conference shall occur prior to the Pretrial Conference.
- d. At last ten (10) days in advance of the mediation conference, Plaintiff's attorney shall schedule a conference for all counsel, either in person or by telephone, for the purpose of presenting a Statement of the Case to the mediator at least five (5) days in advance of the mediation. The statement of the case shall contain:
  - (1) A concise paragraph agreed to by the parties describing the overall case;
  - (2) A paragraph from each party containing the contentions of that party; and
  - (3) A paragraph from Plaintiff concerning the relief sought.

These paragraphs shall be brief and to the point and of the kind utilized later in the Pretrial Stipulation for the trial judge to read to the jury.

e. Each party shall be represented at the mediation conference by the person who will try the case. The parties must also be present. A corporate party must be represented by a managing agent. An insured party must also have a representative present with full (not limited) authority to settle the case. A participant who fails to attend, or leaves the mediation conference before the mediator declares the conference ended, or

a party in attendance with limited authority, is subject to sanctions by the Court. Sanctions may include taxing of fees and costs for the participants and the mediator.

f. All discussions, representations and statements made at the mediation conference shall be absolutely privileged and nothing related to the conference shall be admitted at trial or be subject to discovery.

g. In the event the parties settle the case, a binding agreement shall be immediately reduced to writing and executed by counsel and all parties before the conference ends.

h. FEES AND COSTS. Plaintiff's counsel shall assure that all fees and costs of mediation have been paid before distribution of any settlement proceeds. If the case is to proceed to trial, these expenses shall be satisfied prior to trial date.

i. The mediator shall provide the Court with a mediation report five (5) days before Pre-Trial Conference, unless otherwise ordered by the Court.

**12. COMMUNICATIONS NOTICING COURT PROCEEDINGS:** All communications noticing Court proceedings including, but not limited to, subpoenas for trial, jury summons, notices of hearings, notices for depositions and all other Court- related proceedings shall provide that a person with a disability who needs a special accommodation shall contact the Office of the Court Administrator to insure that reasonable accommodations are available. Such communications noting Court proceedings shall include the following substantive language:

*\*\*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 Office of the Court Administrator, (863)534-4690, within two (2) working days of your receipt of this (describe notice); if you are hearing or voice impaired, call TDD (863)534-7777 or Florida Relay Service 711.\*\**

**DONE AND ORDERED** in Chambers at Bartow, Polk County, Florida, this \_\_\_\_\_day of \_\_\_\_\_ 2006.

\_\_\_\_\_  
CIRCUIT JUDGE

Copies furnished to:

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT**  
**IN AND FOR HARDEE, HIGHLANDS AND POLK COUNTIES, FLORIDA**

Plaintiff(s),

VS.

Case Number:

Defendant(s).

**ORDER SETTING PRETRIAL CONFERENCE, JURY TRIAL AND  
DISCOVERY DEADLINE (EMINENT DOMAIN CASES)**

Pursuant to Florida Statute 73.071 and Florida Rules of Civil Procedure 1.200(a)(2) and 1.440(c), the following is hereby ORDERED:

1. **Schedule.** The Pretrial Conference is set on \_\_\_\_\_,  
20 \_\_\_\_\_, at \_\_\_\_\_ .m., before \_\_\_\_\_,  
Circuit Judge in Courtroom \_\_\_\_\_, \_\_\_\_\_ floor, \_\_\_\_\_  
Elevator, \_\_\_\_\_ County Courthouse, \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_, Florida.

The Jury Trial in this cause has been set for \_\_\_\_\_ day(s) during the \_\_\_\_\_ week trial  
block beginning \_\_\_\_\_, 20 \_\_\_\_\_,  
Courtroom \_\_\_\_\_, \_\_\_\_\_ floor, \_\_\_\_\_  
Elevator, \_\_\_\_\_ County Courthouse, \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_, Florida.

A Case Management is set on \_\_\_\_\_ before The Honorable \_\_\_\_\_  
In Courtroom \_\_\_\_\_, \_\_\_\_\_ Floor, \_\_\_\_\_ Elevator, \_\_\_\_\_ Courthouse,  
\_\_\_\_\_.

2. **Disclosure of Witnesses and Exhibits.** Each part shall within thirty (30) days of the entry of this Order, provide the other with:

- a. A witness list of the names and addresses (sufficient for service of subpoena) of all persons believed or known to have any knowledge concerning any of the issues raised by the pleadings and specify the subject matter about which the witness has knowledge, Fla. R. Civ. P., app. Forms 1,2. The subject matter about which the

witness has knowledge is particularly important. The purpose of this disclosure is to enable each party to accurately respond to the Court's inquiries found in Fla. R. Civ. P. 1.200(b)(1)-(5).

- b. A list of all potential exhibits, copies of which shall be provided promptly to opposing counsel. Newly discovered exhibits shall be immediately provided.
3. **Reports.** All reports including, but not limited to, written real estate appraisals, special damage reports, environmental waste reports, etc., and all support data will be furnished to opposing counsel no later than forty-five (45) days prior to the pretrial conference. Any reports and data not furnished shall not be used at trial.
4. **Final Witness List.** The Final/Supplemental Witness List shall be provided to opposing counsel by no later than thirty (30) days prior to the pretrial conference and shall be provided as in Paragraph 2a. Failure to timely comply with the above will result in exclusion of any witnesses so provided.
5. **Consultation.** **At least 15 days before Pretrial Conference,** Plaintiff's counsel shall conduct a consultation, be telephone or in person, with all counsel cooperating in order to:
  - a. Discuss settlement.
  - b. Arrange to examine all trial exhibits and demonstrative aids.
  - c. Review witness lists with the goal of identifying those witnesses each party reasonably anticipates will be called to testify at trial.
  - d. Review the five (5) items found in Rule 1.200(b), Fla. R. Civ. P. in preparation for the Pretrial Conference.
  - e. Prepare mutual stipulation and proposed Pretrial Order as required below.
6. **Mutual Stipulation and Proposed Pretrial Order.** **At least three working days before Pretrial Conference,** a Stipulation (in one document) shall be submitted directly to the Court's Chambers by U.S. Mail or by hand delivery, but not by facsimile. Plaintiff's counsel shall have the responsibility for drafting the Stipulation that shall contain:
  - a. A statement of the case agreed to by the parties containing:
    - i. Paragraph, agreed to by the parties, describing the overall case.
    - ii. Paragraph from each party containing the contentions of that party.
    - iii. Paragraph from the Plaintiff concerning the relief sought.

These paragraphs shall be brief and to the point. In jury trials, the Court will probably read these paragraphs to the jury. Counsel may simply update the Statement of the Case provided for mediation.

- b. A list of pleadings upon which the case will go to trial.
- c. A statement of:
  - i. Facts admitted by the parties.
  - ii. Factual issues remaining to be litigated.
- d. A statement of:
  - i. All matters requiring action by the Court.

- ii. Legal and evidentiary issues likely to arise at trial.
- iii. Anticipated special instructions beyond standard instructions.
- e. A complete list of witnesses that each party reasonably anticipates will be called to testify at trial. Previously submitted lists, as updated, may be attached.
- f. A list of all exhibits and demonstrative aids. Those exhibits and aids the parties agree are admissible or acceptable for use at trial shall be marked with as asterisk.
- g. An indication of party who will secure the court reporter, if any.
- h. A statement confirming that the parties have complied with paragraphs 2, 4, 5, and 12 of this Order.
- i. The signature of counsel for all parties.

Plaintiff's counsel, unless otherwise directed by the Court, will have the responsibility for drafting the proposed Pretrial Order that shall contain:

- a. The incorporated mutual Pretrial Stipulation.
- b. The Court's ruling upon all matters requiring court action.

**The Pretrial Order shall thereafter control the course of action.** Fla. R. Civ. P. 1.200(d).

7. **Discovery.** The Court directs shall all discovery shall be completed before Pretrial Conference. Discovery conducted thereafter will be at the risk of counsel. No continuances will be granted because of facts arising from discovery conducted after the Pretrial Conference.

8. **Motions.** No motions, except motions in limine, will be heard at or after the Pretrial Conference absent compelling circumstances and consent of the Court.

9. **Attendance.** Each party shall be represented at the Pretrial Conference by the person who will try the case. In addition to the items in the Pretrial Stipulation, each participant must be prepared to discuss the five items of Fla. R. Civ. P. 1.200(b). If the person attending the Pretrial Conference is not authorized to enter into binding stipulations concerning trial matters [*i.e.*, needs to confer with the client before entering into any agreements concerning matters that will expedite the progress of the trial, ; *see* Fla. R. Civ. P. 1.200(b)], then the party must also be present.

10. **Jury Instructions.** Plaintiff shall provide a complete set of proposed jury instructions. Defendant shall provide only special instructions not included in Plaintiff's submission. The proposed instructions will be submitted at such time as the Judge shall direct. All instructions will be in a form suitable for submission to the jury. (The face sheet is to identify the proposing party and contain a numbered list of the proposed instructions. The instructions may be correspondingly numbered. A party may attach citations of authority to individual instructions. No such information shall be contained on the face of the instructions.)

11. **Settlement.** In the event this case settles, Plaintiff's counsel shall immediately notify the undersigned by written fax memorandum (\_\_\_\_\_) and/or by phone (\_\_\_\_\_).

12. **Mediation.**

- a. This case is ordered to mediation.
- b. Plaintiff's counsel shall seek agreement with all concerned as to a certified mediator their compensation. If achieved, Plaintiff's counsel shall file a notice containing this information in the record. If the parties cannot agree within ten (10) days of this Order, Plaintiff's counsel shall notify the Court which will enter an Order appointing the mediator and set compensation.
- c. Plaintiff's attorney shall:
  - i. Schedule the mediation conference at a time agreeable to all concerned sufficiently in advance of the Pretrial Conference.
  - ii. Confirm the date, time and place of the mediation conference by letter to all concerned. The mediation conference shall occur prior to the Pretrial Conference.
- d. At last ten (10) days in advance of the mediation conference, Plaintiff's attorney shall schedule a conference for all counsel, either in person or by telephone, for the purpose of presenting a Statement of the Case to the mediator at least five (5) days in advance of the mediation. The statement of the case shall contain:
  - i. A concise paragraph agreed to by the parties describing the overall case;
  - ii. A paragraph from each party containing the contentions of that party; and
  - iii. A paragraph from Plaintiff concerning the relief sought.

These paragraphs shall be brief and to the point and of the kind utilized later in the Pretrial Stipulation for the trial judge to read to the jury.

- e. Each party shall be represented at the mediation conference by the person who will try the case. The parties **must** also be present. A corporate party **must** be represented by a managing agent. An insured party **must** also have a representative present with **full** (not limited) authority to settle the case. A participant who fails to attend, or leaves the mediation conference before the mediator declares the conference ended, or a party in attendance with limited authority, is subject to sanctions by the Court. Sanctions may include taxing of fees and costs for the participants and the mediator.
- f. All discussions, representations and statements made at the mediation conference shall be absolutely privileged and nothing related to the conference shall be admitted at trial or be subject to discovery.

g. In the event the parties settle the case, a binding agreement shall be immediately reduced to writing and executed by counsel and all parties before the conference ends.

h. FEES AND COSTS. Plaintiff's counsel shall assure that all fees and costs of mediation have been paid before distribution of any settlement proceeds. If the case is to proceed to trial, these expenses shall be satisfied prior to the trial date.

i. The mediator shall provide the Court with a mediation report five (5) days before Pretrial Conference, unless otherwise ordered by the Court.

13. **Communications Noticing Court Appearances.** All communications noticing court proceedings including, but not limited to, subpoenas for trial, jury summonses, notices of hearings, notices for depositions and all other court related proceedings shall provide notice that any person with a disability who needs an accommodation shall contact the Office of the Court Administrator to insure that reasonable accommodations are available. Such communications noticing court proceedings shall include the following substantive language:

*\*\*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 Office of the Court Administrator, (863)534-4690, within two (2) working days of your receipt of this (describe notice); if you are hearing or voice impaired, call TDD (863)534-7777 or Florida Relay Service 711.\*\**

14. The Attorneys are directed during the course of the litigation to follow the Standards of Professional Courtesy adopted by the Polk County Trial Lawyers' Association and the Judges of the Tenth Circuit. Failure to comply with the requirements of this Order will subject the parties or counsel to appropriate sanctions.

**DONE AND ORDERED** in Chambers at Bartow, Polk County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

Circuit Judge

Copies furnished to:

**IN THE TENTH JUDICIAL CIRCUIT COURT  
IN AND FOR POLK COUNTY, FLORIDA  
CIVIL DIVISION**

**CASE NUMBER:** \_\_\_\_\_

**SECTION NUMBER:** \_\_\_\_\_

\_\_\_\_\_,  
**Plaintiff,**

v.

\_\_\_\_\_,  
**Defendant.**  
\_\_\_\_\_ /

**ORDER SETTING PRETRIAL CONFERENCE AND JURY TRIAL  
AND DIRECTING MEDIATION**

Pursuant to Florida Rules of Civil Procedure 1.200(a)(2) and 1.440(c), the following is hereby **ORDERED**:

**1. SCHEDULE.** The **Pretrial Conference** is set on **Tuesday, \_\_\_\_\_, at 9:00 a.m.**, before the Honorable \_\_\_\_\_, Circuit Judge, in **Hearing Room \_\_\_\_\_, \_\_\_\_\_ Floor, \_\_\_\_\_ Elevator, \_\_\_\_\_ Tower, in the Polk County Courthouse, 255 N. Broadway Ave., Bartow, Florida.**

The jury trial in this cause has been set for \_\_\_\_\_ days during the two-week trial block beginning on \_\_\_\_\_, at **9:00 a.m., in Courtroom \_\_\_\_\_, \_\_\_\_\_ Elevator, \_\_\_\_\_ Tower, Polk County Courthouse, 255 N. Broadway Ave., Bartow, Florida.**

**2. CONFLICTS.** *Within 10 days of this Order*, counsel shall notify the Court in writing if (a) inadequate time has been allowed for trial, (b) if a scheduling conflict exists, (c) if discovery cannot be completed by the Pretrial Conference as ordered in paragraph 7 below, or (d) if alternative deadlines or case management are needed, whereupon a Case Management Conference may be set by counsel or ordered by the Court. The Court recognizes that most scheduling conflicts will resolve themselves. However, if a conflict about which the Court has been notified persists, it could later be good cause for a continuance.

**3. CONTINUANCES.** No continuance will be granted unless good cause is demonstrated in writing, signed by counsel and the parties he or she represents. *See Florida Rules of Judicial Administration, Rule 2.545(e).* Conflicts about which the Court has been notified pursuant to Paragraph 2 will be persuasive.

**4. DISCLOSURE.** *Within 30 days of this Order*, each party shall provide the other with:

- a. A witness list of the names and addresses (sufficient for service of subpoena), "of all persons believed or known... to have any knowledge concerning any of the issues raised by the pleadings and specify the subject matter about which the witness has knowledge" Florida Rules of Civil Procedure, Appendix, Standard Interrogatories Forms 1 and 2. The subject matter about which the witness has knowledge is particularly important. The purpose of this disclosure is to enable each party to accurately respond to the Court's inquiries found in Florida Rules of Civil Procedure 1.200(b)(1)-(5).

- b. A list of all experts that will be called to testify at trial so that expert discovery is completed by the time of the Pretrial Conference. Not later than 60 days before the Pretrial conference, the parties shall exchange the names and addresses of all experts, that will be called to testify at trial, along with the expert's specialty, the subject matter on which the expert is expected to testify, and the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.
- c. A list of all potential exhibits, copies of which shall be provided promptly to opposing counsel. Newly discovered exhibits shall be immediately provided.

Failure to timely comply with the above may result in the exclusion of said witness and/or use of said exhibit at trial.

**5. CONSULTATION.** *At least 15 days before Pretrial Conference*, Plaintiff's counsel shall conduct a conference, by telephone or in person, with all counsel cooperating in order to:

- a. Discuss settlement.
- b. Arrange to examine all trial exhibits and demonstrative aids.
- c. Review witness lists with the goal of identifying those witnesses each party reasonably anticipates will be called to testify at trial.
- d. Review the five (5) items found in Rule 1.200(b), Fla.R.Civ.P., in preparation for the Pretrial Conference.
- e. Prepare mutual stipulation and proposed Pretrial Order as required below.

**6. MUTUAL STIPULATION AND PROPOSED PRETRIAL ORDER.** *At least three working days before Pretrial Conference*, a Mutual Stipulation (in one document) shall be submitted directly to the Court's Chambers. Plaintiff's counsel shall have the responsibility for drafting the Mutual Stipulation which shall contain:

- a. A statement of the case agreed to by the parties containing:
  1. Paragraph, agreed to by the parties, describing the overall case.
  2. Paragraph from each party containing the contentions of that party.
  3. Paragraph from the Plaintiff concerning the relief sought.These paragraphs shall be brief and to the point. In jury trials, the Court will probably read these paragraphs to the jury. (Counsel may simply update the Statement of the Case provided for mediation.)
- b. A list of pleadings upon which the case will go to trial.
- c. A statement of
  1. Facts admitted by the parties.
  2. Factual issues remaining to be litigated.
- d. A statement of
  1. All matters requiring action by the Court.
  2. Legal and evidentiary issues likely to arise at trial.
  3. Anticipated special instructions beyond standard instructions.
- e. A list of witnesses that each party reasonably anticipates will be called to testify at trial. (Previously submitted lists, as updated, may be attached.)
- f. A list of all exhibits and demonstrative aids. Those exhibits and aids the parties agree are admissible or acceptable for use at trial shall be marked with an asterisk.

## ATTACHMENT C

- g. An indication of which party will secure the court reporter, if any.
- h. A statement confirming and attesting that counsel have complied with paragraphs 4, 5 and 12 of this Order.
- i. The signature of counsel for each party.

Plaintiff's counsel, unless otherwise directed by the Court, will have responsibility for drafting the proposed Pretrial Order which shall contain:

- a. The incorporated mutual Pretrial Stipulation.
- b. The Court's rulings upon all matters requiring Court action.

**The Pretrial Order shall thereafter control the course of action.** Fla. R. Civ. P. 1.200(d).

**7. DISCOVERY.** The Court directs that all discovery shall be completed before Pre Trial Conference. Discovery conducted thereafter will be at the risk of counsel.

**8. MOTIONS.** No Motions will be heard at or after the Pretrial Conference absent compelling circumstances and consent of the Court.

**9. ATTENDANCE.** Each party shall be represented at the Pretrial Conference by the attorney who will try the case. In addition to the items in the Pretrial Stipulation, each participant must be prepared to discuss the five (5) items of *Fla. R. Civ. P. 1.200(b)*. *If the person attending the Pretrial Conference is not authorized to enter into binding stipulations concerning anticipated trial matters [i.e., needs to confer with the client before entering into any agreements concerning matters that will expedite the progress of the trial; See, Fla. R. Civ. P. 1.200(b)], then the party must also be present.*

**10. JURY INSTRUCTIONS.** Plaintiff shall provide a complete set of proposed jury instructions. Defendant shall provide only special instructions not included in Plaintiff's submission. The proposed instructions will be submitted at such time as the Judge shall direct. **All instructions will be in a form suitable for submission to the jury.** (The face sheet is to identify the proposing party and contain a numbered list of the proposed instructions. The instructions may be correspondingly numbered. A party may attach citations of authority to individual instructions. No such information shall be contained on the face of the instructions.)

**11. SETTLEMENT.** **In the event this case settles, Plaintiff's counsel shall immediately notify** the undersigned judge.

**12. MEDIATION:**

- a. This case is ordered to mediation.
- b. Plaintiff's counsel shall seek agreement with all concerned as to a certified mediator and their compensation. If achieved, Plaintiff's counsel shall file a notice containing this information in the record. If the parties cannot agree within ten (10) days of this Order, Plaintiff's counsel shall notify the Court which will enter an Order appointing the mediator and set compensation.
- c. Plaintiff's attorney shall
  - (1) Schedule the mediation conference at a time agreeable to all concerned sufficiently in advance of the Pretrial conference.
  - (2) Confirm the date, time and place of the mediation conference by letter to all concerned. The mediation conference shall occur prior to the Pretrial Conference.
- d. At least ten (10) days in advance of the mediation conference, Plaintiff's attorney shall schedule a conference for all counsel, either in person or by telephone, for the purpose of presenting a

Statement of the Case to the mediator at least five (5) days in advance of the mediation. The statement of the case shall contain:

- (1) A concise paragraph agreed to by the parties describing the overall case;
- (2) A paragraph from each party containing the contentions of that party; and
- (3) A paragraph from Plaintiff concerning the relief sought.

These paragraphs shall be brief and to the point and of the kind utilized later in the Pretrial Stipulation for the trial judge to read to the jury.

- e. Each party shall be represented at the mediation conference by the person who will try the case. The parties must also be present. A corporate party must be represented by a managing agent. An insured party must also have a representative present with full (not limited) authority to settle the case. A participant who fails to attend, or leaves the mediation conference before the mediator declares the conference ended, or a party in attendance with limited authority, is subject to sanctions by the Court. Sanctions may include taxing of fees and costs for the participants and the mediator.
- f. All discussions, representations and statements made at the mediation conference shall be absolutely privileged and nothing related to the conference shall be admitted at trial or be subject to discovery.
- g. In the event the parties settle the case, a binding agreement shall be immediately reduced to writing and executed by counsel and all parties before the conference ends.
- h. FEES AND COSTS. Plaintiff's counsel shall assure that all fees and costs of mediation have been paid before distribution of any settlement proceeds. If the case is to proceed to trial, these expenses shall be satisfied prior to trial date.
- i. The mediator shall provide the Court with a mediation report five (5) days before Pre-Trial Conference, unless otherwise ordered by the Court.

**13. COMMUNICATIONS NOTICING COURT PROCEEDINGS:** All communications noticing Court proceedings including, but not limited to, subpoenas for trial, jury summons, notices of hearings, notices for depositions and all other Court-related proceedings shall provide that a person with a disability who needs a special accommodation shall contact the Office of the Court Administrator to insure that reasonable accommodations are available. Such communications noting Court proceedings shall include the following substantive language:

*\*\*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 Office of the Court Administrator, (863)534-4690, within two (2) working days of your receipt of this (describe notice); if you are hearing or voice impaired, call TDD (863)534-7777 or Florida Relay Service 711.\*\**

**DONE AND ORDERED** in Chambers at Bartow, Polk County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2009.

\_\_\_\_\_  
CIRCUIT JUDGE

Copy to:

**ATTACHMENT C**

**IN THE TENTH JUDICIAL CIRCUIT COURT  
IN AND FOR POLK COUNTY, FLORIDA  
CIVIL DIVISION**

**CASE NUMBER:** \_\_\_\_\_

**SECTION NUMBER:** \_\_\_\_\_

\_\_\_\_\_,  
**Plaintiff,**

v.

\_\_\_\_\_,  
**Defendant.**  
\_\_\_\_\_ /

**ORDER SETTING PRETRIAL CONFERENCE AND NON-JURY TRIAL  
AND DIRECTING MEDIATION**

Pursuant to Florida Rules of Civil Procedure 1.200(a)(2) and 1.440(c), the following is hereby **ORDERED:**

**1. SCHEDULE.** The **Pretrial Conference** is set on **Tuesday**, \_\_\_\_\_, **at 10:00 a.m.**, before the Honorable \_\_\_\_\_, Circuit Judge, in **Hearing Room** \_\_\_\_\_, \_\_\_\_\_ **Floor**, \_\_\_\_\_ **Elevator**, \_\_\_\_\_ **Tower**, in the **Polk County Courthouse, 255 N. Broadway Ave., Bartow, Florida.**

The non-jury trial in this cause has been set for \_\_\_\_\_ **days** during the two-week trial block beginning on \_\_\_\_\_, **at 9:00 a.m.**, in **Courtroom** \_\_\_\_\_, \_\_\_\_\_ **Elevator**, \_\_\_\_\_ **Tower**, **Polk County Courthouse, 255 N. Broadway Ave., Bartow, Florida.**

**2. CONFLICTS.** *Within 10 days of this Order*, counsel shall notify the Court in writing if (a) inadequate time has been allowed for trial, (b) if a scheduling conflict exists, (c) if discovery cannot be completed by the Pretrial Conference as ordered in paragraph 7 below, or (d) if alternative deadlines or case management are needed, whereupon a Case Management Conference may be set by counsel or ordered by the Court. The Court recognizes that most scheduling conflicts will resolve themselves. However, if a conflict about which the Court has been notified persists, it could later be good cause for a continuance.

**3. CONTINUANCES.** No continuance will be granted unless good cause is demonstrated in writing, signed by counsel and the parties he or she represents. *See* Florida Rules of Judicial Administration, Rule 2.545(e). Conflicts about which the Court has been notified pursuant to Paragraph 2 will be persuasive.

**4. DISCLOSURE.** *Within 30 days of this Order*, each party shall provide the other with:

- a. A witness list of the names and addresses (sufficient for service of subpoena), "of all persons believed or known... to have any knowledge concerning any of the issues raised by the pleadings and specify the subject matter about which the witness has knowledge" *Florida Rules of Civil Procedure, Appendix, Standard Interrogatories Forms 1 and 2.* The subject matter about which the witness has knowledge is particularly important. The purpose of this disclosure is to enable

each party to accurately respond to the Court's inquiries found in *Florida Rules of Civil Procedure 1.200(b)(1)-(5)*.

- b. A list of all experts that will be called to testify at trial so that expert discovery is completed by the time of the Pretrial Conference. **Not later than 60 days before the Pretrial conference**, the parties shall exchange the names and addresses of all experts, that will be called to testify at trial, along with the expert's specialty, the subject matter on which the expert is expected to testify, and the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.
- c. A list of all potential exhibits, copies of which shall be provided promptly to opposing counsel. Newly discovered exhibits shall be immediately provided.

Failure to timely comply with the above may result in the exclusion of said witness and/or use of said exhibit at trial.

**5. CONSULTATION.** *At least 15 days before Pretrial Conference*, Plaintiff's counsel shall conduct a conference, by telephone or in person, with all counsel cooperating in order to:

- a. Discuss settlement.
- b. Arrange to examine all trial exhibits and demonstrative aids.
- c. Review witness lists with the goal of identifying those witnesses each party reasonably anticipates will be called to testify at trial.
- d. Review the five (5) items found in Rule 1.200(b), Fla. R. Civ. P., in preparation for the Pretrial Conference.
- e. Prepare mutual stipulation and proposed Pretrial Order as required below.

**6. MUTUAL STIPULATION AND PROPOSED PRETRIAL ORDER.** *At least three working days before Pretrial Conference*, a Mutual Stipulation (in one document) shall be submitted directly to the Court's Chambers. Plaintiff's counsel shall have the responsibility for drafting the Mutual Stipulation which shall contain:

- a. A statement of the case agreed to by the parties containing:
  - 1. Paragraph, agreed to by the parties, describing the overall case.
  - 2. Paragraph from each party containing the contentions of that party.
  - 3. Paragraph from the Plaintiff concerning the relief sought.These paragraphs shall be brief and to the point. In jury trials, the Court will probably read these paragraphs to the jury. (Counsel may simply update the Statement of the Case provided for mediation.)
- b. A list of pleadings upon which the case will go to trial.
- c. A statement of
  - 1. Facts admitted by the parties.
  - 2. Factual issues remaining to be litigated.
- d. A statement of
  - 1. All matters requiring action by the Court.
  - 2. Legal and evidentiary issues likely to arise at trial.
  - 3. Anticipated special instructions beyond standard instructions.
- e. A list of witnesses that each party reasonably anticipates will be called to testify at

trial. (Previously submitted lists, as updated, may be attached.)

- f. A list of all exhibits and demonstrative aids. Those exhibits and aids the parties agree are admissible or acceptable for use at trial shall be marked with an asterisk.
- g. An indication of which party will secure the court reporter, if any.
- h. A statement confirming and attesting that counsel have complied with paragraphs 4, 5 and 12 of this Order.
- i. The signatures of counsel for each party.

Plaintiff's counsel, unless otherwise directed by the Court, will have responsibility for drafting the proposed Pretrial Order which shall contain:

- a. The incorporated Mutual Stipulation.
- b. The Court's rulings upon all matters requiring Court action.

**The Pretrial Order shall thereafter control the course of action.** Fla. R. Civ. P. 1.200(d).

**7. DISCOVERY.** The Court directs that all discovery shall be completed before Pre Trial Conference. Discovery conducted thereafter will be at the risk of counsel.

**8. MOTIONS.** No motions will be heard at or after the Pretrial Conference absent compelling circumstances and consent of the Court.

**9. ATTENDANCE.** Each party shall be represented at the Pretrial Conference by the attorney who will try the case. In addition to the items in the Pretrial Stipulation, each participant must be prepared to discuss the five (5) items of *Fla. R. Civ. P. 1.200(b)*. *If the person attending the Pretrial Conference is not authorized to enter into binding stipulations concerning anticipated trial matters [i.e., needs to confer with the client before entering into any agreements concerning matters that will expedite the progress of the trial; See, Fla. R. Civ. P. 1.200(b)], then the party must also be present.*

**10. SETTLEMENT.** **In the event this case settles, Plaintiff's counsel shall immediately notify** the undersigned judge.

**11. MEDIATION:**

- a. This case is ordered to mediation.
- b. Plaintiff's counsel shall seek agreement with all concerned as to a certified mediator their compensation. If achieved, Plaintiff's counsel shall file a notice containing this information in the record. If the parties cannot agree within ten (10) days of this Order, Plaintiff's counsel shall notify the Court which will enter an Order appointing the mediator and set compensation.
- c. Plaintiff's attorney shall
  - (1) Schedule the mediation conference at a time agreeable to all concerned sufficiently in advance of the Pretrial conference.
  - (2) Confirm the date, time and place of the mediation conference by letter to all concerned. The mediation conference shall occur prior to the Pretrial Conference.
- d. At last ten (10) days in advance of the mediation conference, Plaintiff's attorney shall schedule a conference for all counsel, either in person or by telephone, for

the purpose of presenting a Statement of the Case to the mediator at least five (5) days in advance of the mediation. The statement of the case shall contain:

- (1) A concise paragraph agreed to by the parties describing the overall case;
- (2) A paragraph from each party containing the contentions of that party; and
- (3) A paragraph from Plaintiff concerning the relief sought.

These paragraphs shall be brief and to the point and of the kind utilized later in the Pretrial Stipulation for the trial judge.

- e. Each party shall be represented at the mediation conference by the person who will try the case. The parties must also be present. A corporate party must be represented by a managing agent. An insured party must also have a representative present with full (not limited) authority to settle the case. A participant who fails to attend, or leaves the mediation conference before the mediator declares the conference ended, or a party in attendance with limited authority, is subject to sanctions by the Court. Sanctions may include taxing of fees and costs for the participants and the mediator.
- f. All discussions, representations and statements made at the mediation conference shall be absolutely privileged and nothing related to the conference shall be admitted at trial or be subject to discovery.
- g. In the event the parties settle the case, a binding agreement shall be immediately reduced to writing and executed by counsel and all parties before the conference ends.
- h. FEES AND COSTS. Plaintiff's counsel shall assure that all fees and costs of mediation have been paid before distribution of any settlement proceeds. If the case is to proceed to trial, these expenses shall be satisfied prior to trial date.
- i. The mediator shall provide the Court with a mediation report five (5) days before Pre-Trial Conference, unless otherwise ordered by the Court.

**12. COMMUNICATIONS NOTICING COURT PROCEEDINGS:** All communications noticing Court proceedings including, but not limited to, subpoenas for trial, jury summons, notices of hearings, notices for depositions and all other Court- related proceedings shall provide that a person with a disability who needs a special accommodation shall contact the Office of the Court Administrator to insure that reasonable accommodations are available. Such communications noting Court proceedings shall include the following substantive language:

*\*\*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 Office of the Court Administrator, (863)534-4690, within two (2) working days of your receipt of this (describe notice); if you are hearing or voice impaired, call TDD (863)534-7777 or Florida Relay Service 711.\*\**

**DONE AND ORDERED** in Chambers at Bartow, Polk County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2009.

---

CIRCUIT JUDGE

Copy to:

**ATTACHMENT D**