

IN THE COURT OF COMMON PLEAS

LAKE COUNTY, OHIO

)	CASE NO.
Plaintiff,)	
)	
-vs-)	<u>ORDER</u>
)	JUDGE PATRICK J. CONDON
Defendant.)	

To ensure readiness of this matter for trial, to initiate settlement negotiations, to facilitate discovery on behalf of all parties, and to promote an effective and efficient resolution of the case, the court issues this court order.

PRE-TRIAL ORDERS

1. Discovery shall proceed pursuant to the Ohio Civil Rules and may continue until one of the following occurs: 1) the case is submitted to arbitration or mediation; 2) thirty (30) days prior to a scheduled trial date; or 3) the court orders otherwise. The identity of an expert witness (including a party), whose opinion will be offered in evidence at trial, and the exchange of said expert's written report, including the expert's findings and conclusions, or a written summary and substance of any unwritten opinion, shall be disclosed in accordance with the case management order, and if not addressed there, then prior to any discovery cutoff deadline.
2. All leaves to plead shall be requested in writing. Leaves to plead as defined in the Ohio Civil Rules shall be granted only for these time periods: first leave for a maximum of thirty (30) days; second leave for a maximum of fifteen (15) days; and third leave, accompanied by an affidavit enumerating special circumstances, for a maximum of fifteen (15) days. All leaves **MUST BE SIGNED** by the requesting party or counsel. Leaves to respond to motions shall be requested in writing and shall be granted in fourteen (14) day intervals only. **ALL LEAVES ARE AT THE DISCRETION OF THE COURT.**
3. Once ordered to arbitration or mediation, the court will entertain no discovery or pretrial motions. All motions filed prior to arbitration or mediation referral may be ruled on by the court before the scheduled hearing.
4. Discovery enumerated in Ohio Civil Rule 5(D), to wit: depositions, interrogatories, requests for documents and admissions and answers and responses thereto, shall not be filed with the Lake County Clerk of the Common Pleas Court unless on order of the court or for use as evidence or for consideration of a motion in the case. Parties shall file a single page notice indicating the discovery request or response served, the date issued, and upon whom served.

5. The court will not entertain any motion to compel discovery absent compliance with Local Rule 5.04 of the Lake County Common Pleas Court, and if unable to resolve, then a collective personal conference with the Judge.

6. All requests for continuances shall be in writing accompanied by a statement of reasons for the request and signed by the party and counsel.

7. Absent just cause, no leave to file a motion for summary judgment shall be granted within sixty (60) days of a scheduled trial.

8. Except for the Bureau of Workers' Compensation, counsel must have the client present at pretrials. If any party is represented by an insurance carrier, an insurance representative must be present with full authority to settle. The respective attorneys shall contact each other prior to the scheduled pretrial with the purpose of resolving all issues and discussing settlement.

TRIAL MATTERS

9. Motions in limine shall be filed no later than fourteen (14) days before trial.

10. Trial briefs shall be filed by each counsel with appropriate citations supporting the theory of their case no later than fourteen (14) days before trial.

11. Counsel shall submit to the court any written stipulations no later than the morning of trial.

12. Counsel shall submit to the court written lists of the names of witnesses to be presented to testify and description of exhibits to be presented at trial no later than seven (7) days before trial.

13. No continuance of trial will be granted without a written motion supported by affidavit or appropriate documentation. **THE UNAVAILABILITY OF ANY WITNESS, EXPERT OR OTHERWISE, WILL NOT BE GROUNDS TO CONTINUE THE TRIAL DATE. COUNSEL SHALL PRESERVE BY WRITTEN OR VIDEO DEPOSITION, THEIR "KEY WITNESSES", OR FACE THE POSSIBILITY OF GOING FORWARD WITH THE TRIAL WITHOUT THEIR TESTIMONY.** All date conflicts shall be documented by either copies of the conflicting notice or a sworn statement enumerating case number, jurisdiction, judge, and date of scheduling. **IN DETERMINING PRIORITY, ALL SCHEDULED DATES SHALL RELATE BACK TO THE DATE THE FIRST NOTICE WAS ISSUED BY THIS COURT.**

14. Counsel shall meet or otherwise communicate with reference to this case two weeks before trial to review all stipulations, witness lists, expert reports, exhibits and:

- a. Enter into and reduce to writing all stipulations to which counsel agree;
- b. Provide counsel with a written list of the names and addresses of all

witnesses counsel expects to call;

c. MARK ALL EXHIBITS FOR IDENTIFICATION PRIOR TO TRIAL. PLAINTIFF'S EXHIBITS SHALL BE NUMBERED AND DEFENDANT'S EXHIBITS LETTERED CONSECUTIVELY. The exhibits shall have been

inspected by opposing counsel and copied at their expense (if requested);

d. Counsel shall exchange a list of all exhibits to be offered at trial including a brief description of each. For any known to exist but not available exhibits, the substance thereof shall be disclosed and numbers or letters are to be reserved for such exhibits. Counsel shall indicate whether an exhibit may be admitted into evidence by stipulation or if not admitted by stipulation, whether the exhibit may be offered into evidence without proof of its authenticity;

e. Where video or written depositions are to be used, objections to any testimony must be brought to the attention of the court no later than fourteen (14) days before trial by motion, listing the specific objections requiring ruling, their location by line and page in the written deposition transcript, as well as by time reference on any video. No objections to deposition testimony will be entertained at trial;

f. Pursuant to Civ.R. 51(A), the jury shall receive a written copy of the Court's instructions using OJI. Counsel shall submit to the Court proposed instructions for all causes of action and any affirmative defenses, as well as proposed verdict forms and interrogatories, no later than fourteen (14) days before trial. The Court will use OJI wherever possible, but counsel may submit instructions outside of OJI for special situations or areas that OJI does not cover. The parties do NOT need to provide instructions for introductory or closing remarks or general topics such as the burden of proof, evidence, credibility, and verdicts unless a particular instruction outside of OJI is warranted. The instructions shall be provided by electronic copy in Word or Word Perfect by email sent to CommonPleasCourtV@lakecountyohio.gov. Neither the written copy nor the electronic copy should be filed with the Clerk of Courts unless preservation of appellate rights is concerned.

g. Within thirty (30) days after conclusion of the case, the prevailing party shall submit to the court a judgment entry reflecting the verdict or outcome;

15. The Court employs the "struck" method for jury selection.

a. The Court will do a limited voir dire prior to turning the questioning over to counsel;

b. During jury selection, each side will be given two (2) minutes to give a mini-opening statement to advise the jurors about the case. This is not argument and will be limited to two (2) minutes per side;

c. Each side will also be asked to provide the jurors with names of witnesses and/or other names that the jurors may hear during the course of trial to determine if any juror is familiar with those people;

d. Questioning will be done of the entire panel. If follow up questioning is appropriate, individual jurors may be questioned;

e. Jurors will be identified by number only;

f. When all questioning is completed, the jurors will be excused from the

courtroom. At that time, challenges for cause will be considered followed by peremptory challenges;

g. Alternate juror(s) will be chosen. The Court and the parties will know the identity of the alternate juror(s), but the jurors will not be notified of the identity of the alternate juror(s) until the jury is about to begin their deliberations.

16. At a jury trial, motions or objections to evidence or procedure shall not be accompanied by explanation or reason for the motion or objections in the jury's presence and hearing. So-called 'speaking objections', which attempt to justify the objections to the jury, will not be permitted. If the court wishes to know the grounds for any motion or objection, counsel will be asked to present such grounds at the bench, at side bar, in chambers, or after the jury has been dismissed from the courtroom. If any counsel wishes to present grounds for a motion or objection, he or she shall so advise the court at the bench outside the jury's hearing.

17. The Court will instruct the jury on the law prior to the closing arguments of counsel. After closing arguments, the Court will provide concluding instructions to the jury.

18. Failure of any party or counsel to comply with any provision of this Order shall subject that party or counsel to the sanctions as provided in Civil Rule 37(B) and as provided in the Local Rules of the Lake County Common Pleas Court.

19. If a case is settled or dismissed, the court shall be notified immediately by counsel. Entries of settlement or dismissal shall be filed no later than thirty (30) days after notice of settlement or dismissal to the Court. **NOTICES OF SETTLEMENT OR DISMISSAL PRIOR TO TRIAL SHALL BE FILED NO LATER THAN THE SCHEDULED TRIAL DATE. A SCHEDULED TRIAL SHALL PROCEED, OR BE DISMISSED FOR WANT OF PROSECUTION, UNLESS NOTIFICATION OF SETTLEMENT OR DISMISSAL IS FILED WITH THE COURT PRIOR TO BEING CALLED FOR TRIAL.**

IT IS SO ORDERED.

/s/ PATRICK J. CONDON, JUDGE