

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. [Case No.]-CIV-SEITZ/MCALILEY

[Plaintiff],
Plaintiff,

vs.

[Defendant],
Defendant.

_____ /

ORDER REQUIRING JOINT SCHEDULING REPORT

THIS MATTER came before the Court upon the filing of the Complaint. The Court has reviewed the Complaint and is otherwise fully advised. It is

ORDERED:

1. Plaintiff(s), through counsel, or if unrepresented, personally, shall provide copies of this order to all counsel and any unrepresented parties when they file an appearance in the case.

2. **Joint Scheduling Report (JSR)**. Pursuant to Fed.R.Civ.P 26(f) and Local Rule 16.1B, the parties are jointly responsible for conferring to develop a Joint Scheduling Report that sets out a proposed case management and discovery plan. By **[Date - 75 days out]**, the parties must jointly file with the Court a scheduling report that includes a complete service list containing the names, addresses, phone, facsimile and bar numbers of each counsel. Parties need **not** submit a proposed scheduling order with the Report. **If Plaintiff has not effectuated service on all defendants at least forty (40) days from the date of this Order**, Plaintiff must file a motion to extend the time to file the JSR, specifying the date on which service will be completed and the JSR will be filed.

3. The **Joint Scheduling Report must include** the following:

A. A short, plain statement of the nature of the claim, any counterclaims, cross-claims or third-party claims with a good faith estimate of the specific dollar valuation of damages claimed and any other relief sought.

B. A brief summary of the facts that are uncontested or which can be stipulated to without discovery.

C. A list of the legal elements of each claim and defense asserted. Consult the Eleventh Circuit or applicable state standard jury instructions for such. This list will be used to help resolve relevance issues in discovery.

D. Whether discovery should be conducted in phases or limited to certain issues.

E. A detailed schedule of discovery for each party.

F. Proposed dates and/or deadlines for: Trial; to join other parties; to amend pleadings; to file motions (i.e., Class Certification, Summary Judgment, Daubert, Markman); to complete fact and expert discovery; to exchange Fed. R. Civ. P. 26(a) (3) disclosures; to complete mediation; and to hold any status, specialized hearings (i.e., Markman), and pretrial conferences.

All Fed. R. Civ. P. 26(a)(3)(A) disclosures must be made at least forty (40) days before the agreed fact discovery cutoff. Fifteen (15) weeks must be scheduled between the Summary Judgment Motion deadline and the pretrial conference to complete briefing and ruling prior to the pretrial stipulation deadline. Pretrial Conferences are set a month before trial. **Attachment A to this order is a case management deadline worksheet for the parties' convenience.**

G. Estimated length of trial and whether it is jury or non-jury.

H. A list of all pending motions, whether each is “ripe” for review, the date each became ripe and a summary of the parties’ respective positions with respect to each ripe motion.

I. Any unique legal or factual aspect of the case requiring the Court’s special consideration.

J. A statement as to the need (or agreement) to refer matters, including motions to dismiss, motions for summary judgment and discovery to the Magistrate Judge or special master. As part of the Joint Scheduling Report, the parties shall jointly complete and file with the Court the **Magistrate Judge jurisdiction election form for motions appended to this Order as Attachment B**. The Court will not accept unilateral submissions in this regard; thus, a “Yes” should be checked only if all parties agree. If all parties consent to a full disposition of the case by the Magistrate Judge, including trial and entry of final judgment, **Attachment C is an election form which all parties must sign and file.**

K. The status and likelihood of settlement.

L. Any other matters that Local Rule 16.1B requires, or that may aid in the fair, expeditious and efficient management and/or disposition of this action.

4. Disclosures required under Fed. R. Civ. P. 26(a)(1)-(2) must be made at or before the time the parties confer to develop their case management and discovery plan. The parties must certify in the Joint Scheduling Report that such disclosures have been made unless a party objects that the required disclosure(s) is not appropriate under the circumstances, and files an objection to the specific disclosure(s). Such filed objection must include a full explanation of the basis for the objection.

5. If after receipt of the parties' Joint Scheduling Report the Court determines that a Rule 16(b) Fed. R. Civ. P. scheduling and planning conference is necessary, it shall set a hearing. The parties should be prepared to argue all motions pending at the time of such hearing.

DONE AND ORDERED in Miami, Florida, this _____ day of May, 2010.

PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc: All counsel of record

Case Management Deadline Worksheet

- _____, ___ Joinder of parties and amendment of pleadings.
- _____, ___ Parties shall furnish opposing counsel with a written list containing the names and addresses of all fact witnesses intended to be called at trial and only those witnesses listed shall be permitted to testify unless good cause is shown and there is no prejudice to opposing party. The parties are under a continuing obligation to supplement discovery responses within ten (10) days of receipt or other notice of new or revised information.
- _____, ___ Plaintiff must furnish expert witness list to the Defendant, along with the summaries/reports required by Local Rule 16.1.K, and only those expert witnesses shall be permitted to testify. Within the fourteen day period thereafter, Plaintiff shall make its experts available for deposition by Defendant.
- _____, ___ Defendant must furnish expert witness list to the Plaintiff along with the summaries/reports required by Local Rule 16.1.K, and only those expert witnesses shall be permitted to testify. Within the fourteen day period thereafter, Defendant shall make its experts available for deposition by Plaintiff.
- _____, ___ All discovery must be completed.
- _____, ___ All dispositive pretrial motions and memoranda of law must be filed. A **minimum of fifteen (15) weeks** is required for the Court to review dispositive motions prior to filing of the joint pretrial stipulation. **If no dispositive motions will be filed, clearly note this fact in the Joint Scheduling Report.**
- _____, ___ Mediation must be completed. (The parties should select the earliest date to maximize resolution of the case in a manner that promotes client and judicial economy.)
- _____, ___ (a) Joint pretrial stipulation must be filed pursuant to Local Rule 16.1.E. The pretrial stipulation shall include Plaintiff's non-binding breakdown of damages with corresponding amounts; the witness lists shall be pared down to those witnesses the parties actually intend to call at trial; and the exhibit lists shall identify the witness introducing each exhibit. **The parties shall meet at least one (1) month prior to the deadline for filing the pretrial stipulation to confer on the preparation of that stipulation.** The Court will not accept unilateral pretrial stipulations, and will strike, *sua sponte*, any such submissions; **and**
- (b) Joint proposed jury instructions (for jury cases) or conclusions of law (non-jury cases) outlining (1) the legal elements of Plaintiff's claims, including damages, and (2) the legal elements of the defenses raised; **and**
- (c) Joint Summary of Respective Motions in Limine must be filed. The Summary shall contain a cover page providing the style of the case and an index of the motions in limine. The Summary shall also include for each evidentiary issue: (i) a one (1) page motion identifying the evidence sought to be precluded at trial and citing legal authority supporting exclusion; and (ii) a one (1) page response to the motion providing a statement of the purpose for which the challenged evidence would be offered and citing legal authority in support of admission of the challenged evidence. The parties shall work together to prepare the Summary. Prior to submission of the Summary, the parties are encouraged to resolve evidentiary issues through stipulation.
- _____, ___ Final proposed jury instructions or findings of fact and conclusions of law must be submitted. (*A courtesy copy shall be hand-delivered to Chambers on 3.5 diskette, WordPerfect format*), each party's list indicating each witness who will testify at trial, a one sentence synopsis of the testimony, and in consultation with opposing counsel, indicate the amount of time needed for direct and cross examination.
- _____, ___ Pretrial conference. Usually 30 minutes are allotted for pretrial conference unless the parties or the Court, *sua sponte*, indicate a greater time is needed.
- _____, ___ Trial Date.
- _____, ___ Date of any other deadline the parties adopt as part of their case management plan, including *Daubert* or *Markman* hearing. In cases the parties anticipate a *Markman* hearing, counsel must provide dates for the exchange of proposed disputed claim terms, and due dates for Plaintiff's brief and Defendant's brief.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. [Case No.]-CIV-SEITZ/McALILEY

[Plaintiff],

Plaintiff,

v.

[Defendant],

Defendant.

_____ /

**ELECTION TO JURISDICTION BY A UNITED STATES
MAGISTRATE JUDGE FOR FINAL DISPOSITION OF MOTIONS**

In accordance with the provisions of 28 U.S.C. 636(c), the undersigned parties to the above-captioned civil matter hereby jointly and voluntarily elect to have a United States Magistrate Judge decide the following motions and issue a final order or judgment with respect thereto:

- | | | | |
|----|------------------------------|-----------|----------|
| 1. | Motions for Costs | Yes _____ | No _____ |
| 2. | Motions for Attorney's Fees | Yes _____ | No _____ |
| 3. | Motions for Sanctions | Yes _____ | No _____ |
| 4. | Motions to Dismiss | Yes _____ | No _____ |
| 5. | Motions for Summary Judgment | Yes _____ | No _____ |
| 6. | Other (specify) _____ | | |

(Date)

(Signature-Plaintiff's Counsel)

(Date)

(Signature-Plaintiff's Counsel)

(Date)

(Signature-Defendant's Counsel)

(Date)

(Signature-Defendant's Counsel)

[Attachment B]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. [Case No.]-CIV-SEITZ/MCALILEY

[Plaintiff],

Plaintiff,

v.

[Defendant],

Defendant.

_____ /

**ELECTION TO JURISDICTION BY A
UNITED STATES MAGISTRATE JUDGE FOR TRIAL**

In accordance with the provisions of 28 U.S.C. 636(c), the undersigned parties to the above-captioned civil matter hereby jointly and voluntarily elect to have a United States Magistrate Judge conduct any and all further proceedings in the case, including TRIAL, and entry of final judgment with respect thereto.

(Date)

(Signature-Plaintiff's Counsel)

(Date)

(Signature-Plaintiff's Counsel)

(Date)

(Signature-Defendant's Counsel)

(Date)

(Signature-Defendant's Counsel)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO: [Case No.]-CIV-SEITZ/MCALILEY

[Plaintiff],

Plaintiff,

vs.

[Defendant],

Defendant.

/

**ORDER REQUIRING CERTIFICATE OF COUNSEL REGARDING ANY PRIOR FILINGS
UNDER THE AMERICANS WITH DISABILITIES ACT**

THIS CAUSE came on before the Court *sua sponte*. In the instant matter, Plaintiff(s) alleges that Defendant(s) is/are in violation of Title III of the Americans With Disabilities Act.

1. To insure compliance with S.D. Fla. L. R. 3.9 and full completion of JS-44 Civil Cover Sheet, counsel are required to file a verified statement which states:

As an officer of the Court, and attorney for [Plaintiff(s) or Defendant(s)], I do hereby certify that the above-styled case [has or has never] been filed before in either state or federal court. Under my direction, a search has been made on both state and federal court records with the result that I can find no prior filing of this same, or a similarly related case.

Further, I certify that this case has never been considered by another judge in a prior filing and (a) *sua sponte* dismissed, either with or without prejudice to refile, (b) voluntarily dismissed by me or any other lawyer or a party seeking to sue this same defendant on this same cause of action, (c) involuntarily dismissed with or without prejudice to refile for a technical violation of either federal or Southern District Local Rules of Court which would (as an example) include failure to pay filing fee, failure to allege citizenship, failure to obtain default, failure to timely amend, failure to attend a scheduled court hearing, failure to file a Rule 16 scheduling report, failure to file a pretrial stipulation, failure to attend a call of the calendar when ordered, or any other technical violation of the rules.

Further, I do certify that I have not privately agreed with opposing counsel in any case heretofore filed and dismissed for any of the reasons set forth above to keep silent about prior filings and dismissals of this cause of action in violation of S.D. Fla. Rule 3.9A, C and D. I recognize that I have a continuing obligation under Rule 3.9D to keep the Court fully advised of related proceedings described in Rule 3.9.

2. If there has been a prior suit of the nature referred to in paragraph 1 above, counsel will state the present status of that litigation (if pending) and, if not pending, the details of the disposition (i.e., settlement, dismissal, or other disposition).

3. If there was such litigation and it was disposed of by settlement, counsel is required to furnish, in response to this Order, specific details of the settlement, including any agreement for attorney's fees, costs and expenses, either known to counsel or ascertainable with reasonable inquiry. Copies of these documents shall be furnished in the response that counsel will file to this inquiry.

4. If there has been a prior filing, counsel shall state whether or not the Defendant(s) (and/or property owned by the Defendant(s) and the subject-matter of this suit) have complied with any settlement in the prior litigation (or not) and if not, what remains to be done under the prior litigation.

5. Counsel shall also state what efforts were made by Plaintiff(s) and Defendant(s) to enforce the terms of any settlement in any prior litigation. Namely, did the property owner make the necessary repairs to the property to bring it in compliance with the ADA, and if not, what efforts Plaintiff(s) in the prior litigation made to seek (by order of contempt or otherwise) enforcement of the settlement of that litigation.

It is therefore, ORDERED, ADJUDGED and DECREED that:

1. Plaintiff's counsel shall file with the Court a verified statement responding to the questions promulgated in this Order **on or before [Date - 75 days out]**. Furthermore, it is Plaintiff's counsel's obligation to ensure that each Defendant is aware of this order.

2. Defendant's counsels shall file a verified statement in response to this Order no later than fifteen (15) days after each Defendant files a response to the Complaint.

DONE AND ORDERED at Miami, Florida, this ____ day of May, 2010.

PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record