

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

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

[Plaintiff],  
Plaintiff,  
vs.

[Defendant],  
Defendant.

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**ORDER SETTING TRIAL DATE, PRETRIAL DEADLINES  
AND REFERRAL TO MAGISTRATE**

Pursuant to Local Rule 16.1, and the Court having considered the parties' Initial Scheduling Report, it is hereby

ORDERED as follows:

1. **Trial Date and Calendar Call.** This case is set for [jury/non-jury] trial on the Court's two-week trial period commencing [Trial date], before the undersigned United States District Judge. Calendar Call shall be held on [Cal. call date], at 1:15 p.m. The case shall be assigned to the [Standard/Complex] case management track.

2. **Pretrial Conference.** A Pretrial Conference shall be held on [PTConf date], at 9:00 a.m.

3. **Pretrial Deadlines.** The pretrial deadlines for joinder of parties, amendment of pleadings and disclosure of witnesses, are those counsel provided in their Initial Scheduling Report filed with the Court. The Court will hold the parties to these deadlines with the exception of the following deadlines the Court has set:

[Discovery Deadline] All discovery must be completed.

[Dispositive Deadline] All summary judgment and Daubert motions must be filed.

[Pretrial Stip Deadline] (a) Joint pretrial stipulation must be filed pursuant to Local Rule 16.1.E. 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.

(b) Joint proposed jury instructions must be filed; or if bench trial, a joint statement outlining (1) the legal elements of Plaintiff's claims, including damages, and (2) the legal elements of the defenses raised, in the form of proposed conclusions of law; **and**

(c) Motions in Limine and Responses must be filed. The motions shall be limited to one (1) page per evidentiary issue, and shall identify the evidence sought to be precluded and the legal authority supporting exclusion. The responses shall also be limited to one (1) page, and shall provide a statement of the purpose for which the challenged evidence would be offered and the legal authority supporting the admissibility of such evidence.

4. **Referral to Magistrate.** Pursuant to Rule 1 of the Magistrate Rules of the Southern District of Florida, **ALL DISCOVERY AND ALL MOTIONS FOR ATTORNEYS' FEES, COSTS AND SANCTIONS** are referred to Magistrate Judge Chris M. McAliley for appropriate resolution. DISCOVERY DISPUTES THAT REQUIRE COURT INTERVENTION SHALL FOLLOW THE PROCEDURES SET OUT ON ATTACHMENT A TO THIS ORDER. It shall be the responsibility of the respective parties in this case to note on all materials necessary to the resolution of the referred matters the name of Magistrate Judge McAliley on the case number caption (i.e., Case No. 99-1234-CIV-SEITZ/MCALILEY) and that courtesy copies of such materials shall be directed to her Chambers.

5. **Settlement.** If this case is settled, counsel must inform the Court within two (2) days by calling Chambers.

6. **Non-compliance with Order and Rules of Court.** Non-compliance with any provision of this Order, the Federal Rules of Civil Procedure, and/or the Local Rules of Court, may subject the offending party to **sanctions or dismissal**. It is the duty of all counsel to enforce the case management timetable to insure an expeditious resolution of this cause.

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

\_\_\_\_\_  
PATRICIA A. SEITZ  
UNITED STATES DISTRICT JUDGE

cc: The Honorable Chris M. McAliley

Counsel of Record

**DISCOVERY PROCEDURE FOR  
MAGISTRATE JUDGE CHRIS M. McALILEY**

The following discovery procedures apply to all civil cases assigned to United States District Judge Patricia A. Seitz.

If a discovery dispute arises, the parties **must** confer in a good faith effort to resolve the dispute.

**DISCOVERY CALENDAR**

If the parties are unable to resolve any discovery dispute without Court intervention, they shall **not** file written motions. The moving party shall contact the chambers of **Magistrate Judge Chris McAliley at (305) 523-5890** and place the matter on the next available discovery calendar. Judge McAliley holds a regular discovery calendar every **Wednesday, from 10:00 a.m. to 11:30 a.m.** in Courtroom VII, United States Courthouse, 300 N.E. First Avenue. The movant shall contact chambers no later than noon on the Friday preceding the discovery calendar, and shall do so **ONLY** after conferring with opposing counsel and confirming his or her availability for the discovery calendar.

**NOTICE OF HEARING**

On the same day that the matter is placed on the discovery calendar, the movant shall file with the Court and serve on opposing counsel a Notice of Hearing. The Notice of Hearing shall briefly specify the substance of the discovery matter to be heard and the amount of time counsel believes will be needed to resolve the discovery disputes. The movant shall include in its Notice of Hearing a certificate of good faith that complies with S.D. Fla. L. R. 7.1 (A)(3).

No later than noon on the Monday preceding the discovery calendar, the parties may prepare a Notice of Filing and file with the Court and serve on opposing counsel a copy of any source materials relevant to the discovery dispute. (For example, if the dispute concerns interrogatories, the interrogatories at issue and the responses thereto shall be filed, with some indication of which interrogatories remain in dispute. As another example, correspondence exchanged by counsel as part of the meet-and-confer process, that narrows the discovery disputes and identifies those remaining, may be attached as source materials.) **Counsel shall also deliver a courtesy copy of source materials to Judge McAliley's chambers by the same deadline.**

**NO WRITTEN DISCOVERY MOTIONS**

To minimize the need for discovery motions, **no written discovery motions**, including motions to compel, for protective order, or related motions for sanctions **shall be filed unless the Court so directs at the discovery calendar.**

**MEET AND CONFER**

Counsel must actually confer and engage in reasonable compromise in a genuine effort to resolve their discovery disputes before noticing the dispute for the discovery calendar. The Court may impose sanctions, monetary or otherwise, if it determines discovery is being improperly sought or is being withheld in bad faith.

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\_\_\_\_\_ /

**ORDER OF REFERRAL TO MEDIATION**

Trial having been set in this matter under separate order of the Court, and pursuant to Federal Rule of Civil Procedure 16(c)(9) and Southern District Local Rule 16.2, it is hereby

**ORDERED** as follows:

1. All parties must participate in mediation.
2. The parties shall complete the mediation within fifteen (15) days after the discovery cutoff date set forth in the Order Setting Trial Date and Pretrial Deadlines.
3. Plaintiff's counsel, or another attorney agreed upon by all counsel of record and any unrepresented parties, shall be responsible for scheduling the mediation conference. The parties are encouraged to avail themselves of the services of any mediator on the List of Certified Mediators, maintained in the office of the Clerk of Court, but may select any other mediator. The parties shall agree upon a mediator and shall file a Notice of Selection of Mediator with the Court, **within fifteen (15) days from the date of this Order** . If there is no agreement, lead counsel shall promptly notify the Clerk in writing and the Clerk shall designate a mediator from the List of Certified Mediators, which designation shall be made on a blind rotation basis.
4. A place, date and time for mediation convenient to the mediator, counsel of record, and unrepresented parties shall be established. The lead attorney shall complete the form order attached and

submit it to the Court for entry **within sixty (60) days from the date of this Order**. The mediation date may not be extended without prior court approval.

5. Except as provided under Local Rule 16.2.E for public-sector entities, the appearance of counsel and each party or representatives of each party with full authority to enter into a full and complete compromise and settlement is mandatory. Appearance shall be in person; telephonic appearance is prohibited. If insurance is involved, an adjustor with authority up to the policy limits or the most recent demand, whichever is lower, shall attend.

6. All discussions, representations and statements made at the mediation conference shall be confidential and privileged.

7. At least ten days prior to the mediation date, all parties shall present to the mediator a brief written summary of the case identifying issues to be resolved. Copies of these summaries shall be served on all other parties.

8. The Court may impose sanctions against parties and/or counsel who do not comply with the attendance or settlement authority requirements herein or who otherwise violate the terms of this Order. The mediator shall report non-attendance and may recommend imposition of sanctions by the Court for non-attendance.

9. The mediator shall be compensated in accordance with the standing Order of the Court entered pursuant to Rule 16.2.B.6, or on such basis as may be agreed to in writing by the parties and the mediator selected by the parties. The cost of mediation shall be shared equally by the parties unless otherwise ordered by the Court. All payments shall be remitted to the mediator within 30 days of the date of the bill. Notice to the mediator of cancellation or settlement prior to the scheduled mediation conference must be given at least two (2) full business days in advance. Failure to do so will result in imposition of a fee for one hour.

10. If at any time the mediation date is rescheduled, the parties **must** file a new Order Scheduling Mediation.

11. If a full or partial settlement is reached in this case, counsel shall promptly notify the Court of the settlement in accordance with Local Rule 16.2.F, by the filing of a notice of settlement signed by counsel of record within ten (10) days of the mediation conference. Thereafter the parties shall forthwith submit an appropriate pleading concluding the case. The case will remain on the trial calendar until an order dismissing the action is entered by the Court.

12. Within five (5) days following the mediation conference, the mediator shall file a Mediation Report indicating whether all required parties were present. The report shall also indicate whether the case settled (in full or in part), was continued with the consent of the parties, or whether the mediator declared an impasse.

13. If mediation is not conducted, the case may be stricken from the trial calendar, and other sanctions may be imposed.

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

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PATRICIA A. SEITZ  
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

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[Plaintiff],

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\_\_\_\_\_ /

**ORDER SCHEDULING MEDIATION**

The mediation conference in this matter shall be held with \_\_\_\_\_  
\_\_\_\_\_ on \_\_\_\_\_, 20\_\_, at \_\_\_\_\_m., at \_\_\_\_\_  
\_\_\_\_\_, Florida.

DONE AND ORDERED at Miami, Florida, this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
PATRICIA A. SEITZ  
UNITED STATES DISTRICT JUDGE

cc: