

**COURT OF COMMON PLEAS
CLERMONT COUNTY, OHIO**

PLAINTIFF	:	
VS.	:	CASE # _____
DEFENDANT	:	<u>CIVIL PRE-TRIAL ORDER</u> (JURY TRIAL)

IT IS ORDERED BY THE COURT AS FOLLOWS:

1. **JURY TRIAL:** The case is scheduled for a Primary Jury Trial on _____ which will commence each day at **10:30 A.M.** unless counsel are notified otherwise. Counsel will be present in court each day at **10:00 A.M.**

2. **FORMAL PRE-TRIAL:** A Formal Pre-Trial Conference is scheduled on _____

3. **MEETING WITH BAILIFF:** A meeting with bailiff regarding exhibits will be held on _____ Counsel are required to attend that meeting.

4. **NO CONTINUANCE POLICY:** No continuance of a trial date will be granted merely by agreement of counsel. Additionally, no continuance of a trial date will be granted without the filing of a motion that sets forth extraordinary reasons beyond the control of counsel and the parties that necessitates the granting of a continuance. If a motion for continuance of a trial date is filed, it will be set for hearing, and all parties and counsel will be required to attend the hearing. If the motion is granted, a new trial date will be selected at the time of the hearing.

5. **TRIAL BRIEFS REQUIRED:** Each counsel shall, at least three (3) days prior to the Formal Pre-trial Conference, serve, file with Clerk of Court, and submit a courtesy copy to the judge, a Trial Brief which shall include a statement of:

- (A) The issues involved;
 - (B) A statement of the principles of law involved in the case supported by citations of appropriate authority;
 - (C) An itemized list of the claimed special damages;
 - (D) Any discovery difficulties; and
 - (E) Whether a view is requested.
6. **FURNISHING OF EXPERT REPORTS:** At least three (3) days prior to the Formal Pre-trial Conference, counsel shall furnish to opposing counsel (and shall submit a copy to the court) a final report of any experts anticipated to testify and a complete summary of their expected testimony.
7. **CONDUCT OF PRE-TRIAL CONFERENCE:** Counsel are expected to be present at the time of the Formal Pre-trial Conference prepared to discuss the following:
- (A) The anticipated factual presentations at trial;
 - (B) The theories of the case;
 - (C) The issues for trial;
 - (D) Progress in complying with the Civil Pre-trial Order for a Jury Trial;
 - (E) Subrogation interests; possibility of settlement;
 - (F) Anticipated evidentiary and/or procedural issues (in the interest of avoiding any unnecessary interruptions or delays during the trial, counsel are requested to promptly advise the court of any anticipated evidentiary or procedural issues which may require research or discussions;
 - (G) Any problems with readiness for trial (see Paragraph 3 above)
 - (H) Any need for bifurcation (should be raised with court at earliest possible time);
 - (I) Stipulations/Admissions (to be reduced to writing);
 - (J) Depositions which will be used at trial;
 - (K) Status of settlement discussions; and
 - (L) Any other matters of a similar nature;

8. **EXHIBIT LISTS AND SERVICE AND FILING OF EXHIBITS:** Counsel shall serve and file original or amended exhibit lists (on the form prescribed by the court which is attached hereto) no later than . Exhibits must be listed and identified on the forms (or any amendments hereto) in the same manner in which they will be used at trial. At the same time, counsel shall provide the opposing side and the bailiff with a notebook containing the exhibits (already marked) in the exact manner in which they will be introduced at trial. Exhibit labels may be obtained from the bailiff in the interest of convenience. There is no requirement that exhibits be offered in sequence. The Plaintiff's exhibits should be marked in numerical sequence; the Defendant's exhibits should be marked in alphabetical sequence. If there are more than twenty-six (26) exhibits for the Defendant, mark them, "AA", "BB", etc. Exhibits may be grouped together for easy reference but should be marked separately.
9. **OBJECTIONS FOR USE OF EXHIBITS:** Each counsel should inform other counsel upon receipt of the opposing side's exhibit list of any intent to raise objection to these matters at trial. Counsel shall serve and file, and shall submit a copy to the judge, objections to any proposed exhibits no later than _____. The objections shall be made on the form provided by the court which is attached hereto.
10. **REPLY TO OBJECTIONS FOR USE OF EXHIBITS:** Counsel shall file any response to stated objections to exhibits by _____.
11. **DISCUSSIONS AMONG COUNSEL REQUIRED AS TO EXHIBITS:** Counsel shall discuss the possible stipulation as the authenticity of documents and the applicability of hearsay exceptions to exhibits contained in the respective exhibit lists. Counsel should confer, and to the extent possible, reach agreement for the admission of exhibits prior to trial so that copies of the agreed upon exhibits can be included in jury notebooks for use of jurors during the trial.
12. **SUBMISSION OF SUFFICIENT COPIES OF EXHIBITS FOR DISTRIBUTION TO JURY:** At the time of the meeting with the bailiff, counsel shall submit to the bailiff twelve (12) copies (8 for jurors, 2 for alternate jurors, 1 for the bailiff, and 1 for the

judge) of any exhibit intended for use at trial. If the exhibits submitted by counsel are too voluminous for inclusion in the juror notebooks provided by the court (anything more than 1 inch in thickness), each counsel shall provide twelve separate notebooks in which the exhibits are contained. Exhibits that are less than 1 inch in thickness shall be 3 hole punched when submitting to the bailiff. Exhibits which are non-documentary or which are too large for reduction are exempt from this requirement. The copy of the exhibits (originals should be provided if possible) that are provided to the bailiff shall be the exhibits which shall be used at trial and shall remain in the possession of the bailiff during the course of the trial.

13. **FAILURE TO COMPLY WITH EXHIBIT REQUIREMENTS:** Exhibits which are not marked, submitted and exchanged in the manner set forth herein may be excluded at trial.
14. **WITNESS LISTS:** Each counsel shall serve and file, and shall submit a copy to the judge, a list of anticipated witnesses no later than _____.
15. **PROPOSED JURY INSTRUCTIONS:** Counsel are not required to submit standard jury instructions on the issues which will be tried. Any proposed jury instructions shall be served and filed, and a copy submitted to the judge, no later than _____. Counsel shall serve and file, and shall submit to the judge, any objections to opposing counsel's proposed jury instructions no later than _____.
16. **MOTIONS IN LIMINE:** Any motion in limine (other than a motion in limine pertaining to matters contained in depositions for use at trial) shall be served and filed, and a copy submitted to the judge, no later than _____ and will be heard at the same time as the meeting with the bailiff.
17. **HEARING OF MATTERS AT TIME OF MEETING WITH BAILIFF:** Any motions in limine, any pre-trial motions which have been timely served and filed and which have not been otherwise scheduled for hearing, and objections to exhibits shall be heard by the court at the same time as the meeting with the bailiff.

18. **DEPOSITIONS FOR USE AT TRIAL:** If there are any objections made in the course of any deposition for use at trial which need to be ruled on by the court, a transcript of the deposition shall be filed as soon as possible, and in no event later than three (3) days prior to trial. A form (which is attached hereto) shall be filed by each counsel at the time of the filing of the transcript indicating the arguments on objections. Counsel shall inform the court of any objections which are being withdrawn.
19. **TRIAL SCHEDULE:** The trial will commence each day at 10:30 a.m. or as soon as the morning docket has been concluded and will continue each day until approximately 4:45 p.m. It may be necessary for counsel to remain later in order to discuss matters which cannot be discussed in the presence of the jury. If the trial cannot be concluded within the time scheduled, the trial will be continued on each succeeding business day until it is concluded. Counsel shall advise the court in advance of any witness scheduling problems. Counsel are expected to have witnesses available so that there are no interruptions in the trial caused by witnesses not being available. Generally, the court will impose no time limits with respect to the time allotted for opening statements and closing arguments. However, the length of closing arguments should be commensurate with the complexity of the issues which are being tried and the quantity of the evidence. Arguments should be succinct and to the point.
20. **VOIR DIRE:** The court will use the struck method, and not the strike and replace method for selecting jurors. Upon entering the courtroom, jurors will be seated in the jury box (using all the available chairs) and in the first couple rows behind the bar in the same order as they appear on the jury list. The entire panel will participate in the voir dire process. The court will inquire of the jury panel first. In addition to those questions which are ordinarily addressed with respect to cause issues, the court will inquire as the following: 1) whether any prospective juror knows any of the participants, counsel (counsel need to provide a list of attorneys in counsel's law firm), or the court or staff; 2) whether anyone knows any of the witnesses involved (counsel are requested to provide the court with a list of prospective witnesses prior to the commencement of the voir dire

process; 3) whether anyone has been involved in any type of occurrence; 4) whether anyone has suffered injuries or damages similar to those claimed in this case; and 5) whether anyone has been involved in any litigation previously. Prospective jurors will be informed that questions which are addressed to the entire jury panel will apply to all prospective jurors. As a juror is removed for cause or hardship, no juror will be substituted because all the jurors will already be participating. A motion to strike for cause may be heard during the time that jurors are questioned. Such a motion must be made by approaching the bench outside the hearing of the jury panel. Under ordinary circumstances, the court will not rule on the motion at that time. After the jurors have been questioned by both attorneys, they will be excused from the courtroom and the actual selection process will occur. Counsel will first state any additional motions for cause. If necessary, the court will call back into the courtroom a prospective juror and make additional inquiry before ruling on a motion to strike for cause. While the prospective jurors are outside the courtroom, counsel will make peremptory strikes in an alternating manner from the first eight names remaining on the jury list. After all peremptory strikes have been exercised or waived, the court will determine the number of alternates to be used in the trial and the same process will occur with those prospective jurors who would be seated as alternates. After the strikes are made, the jury panel will be called back into the courtroom. The court will read the names of the jurors to be seated and the rest of the panel will be released back to the jury commissioner or sent home.

21. **MINI-OPENING STATEMENTS:** After the court has examined jurors, each counsel is requested to give a mini-opening statement. A mini-opening statement is a short statement of what the case is about, i.e., each side's claims and/or defenses. Counsel are instructed to limit their mini-opening statements to the basic facts of the case, without becoming argumentative, and each counsel's statement should take no longer than five minutes. One of the main purposes of the mini-opening statement is to give a context for the subsequent questions which will be asked of prospective jurors. From this context it

is hoped that prospective jurors will have a better appreciation or understanding of counsel's questions and will feel more comfortable in responding to questions that may seem personal in nature.

22. **ATTORNEY QUESTIONING OF JURORS:** After the mini-opening statements, each counsel will be permitted to ask questions which should not duplicate the court's inquiries or the mini-opening statements. Any and all voir dire examination by counsel should be directed toward ascertaining the qualifications of jurors and should be conducted through the questioning of prospective jurors. Each counsel will only address and question the jury panel once. No hypothetical questions are permitted. Counsel may not ask the jurors to promise to return a verdict under specified circumstances.
23. **JUROR NOTEBOOKS:** Jury notebooks will be given to jurors just prior to opening statements. The bailiff will keep possession of notebooks during the time of all recesses. The notebooks will be available to the jurors during deliberations. Preliminary jury instructions, copies of exhibits, final jury instructions, and blank pages to be used in taking notes will be included in the notebook. Instructions will not be given to jurors until just prior to the time that they are read in court. Counsel should feel free to discuss whether there are other matters (i.e., glossary of technical terms) that should be included in the jury notebooks.
24. **JUROR QUESTIONS:** Jurors will be permitted to submit in writing questions to witnesses through the court. Questions may only be asked by jurors at the close of a witness's testimony. Each juror will submit a piece of paper at that time so no one knows which juror(s) has submitted the question(s). Counsel will be given an opportunity to review and object to any jury question. This objection process will not occur in the hearing of the jury. It will occur after completion of juror questions. Questions will be maintained in a separate notebook as part of the record of the case. Counsel will be permitted to review this notebook during the course of the trial.
25. **TRIAL OBJECTIONS:** No "talking objections" are permitted from counsel tables. Counsel may make an objection from counsel table by stating the rule which is

applicable, either by name or by number. Otherwise, counsel shall, upon the making of an objection, ask to approach the bench. Upon approaching the bench, counsel shall be prepared to state succinctly the basis for the objection. Opposing counsel shall then be prepared to state the basis upon which the proposed evidence is admissible. This discussion shall occur at the bench and outside the hearing of the jury. Counsel are cautioned not to attempt to argue their case in front of the jury through the making of the objections.

26. **TRIAL DECORUM:** Counsel should make statements and question witnesses while standing behind the podium. Counsel should request advance permission to approach witnesses.
27. **EQUIPMENT AND TRIAL AIDS:** Counsel should confer in advance (prior to trial and during recesses) with the bailiff regarding any equipment needs. Counsel shall, to the extent practicable, prepare before trial any diagrams to be used; counsel shall place on an easel or in an appropriate place in the courtroom such diagrams during recesses to best utilize available time.
28. **FINAL INSTRUCTIONS OF LAW:** Unless counsel makes a timely objection prior to the commencement of trial, the failure of which to do will be deemed to be a waiver of the right to object, the court will give instructions on the law to be applied before closing arguments of counsel. This will allow the jurors to better evaluate the arguments of counsel and will allow counsel to make freer use of the instructions in their arguments. After closing arguments, the court will instruct the jury on how to conduct deliberations and other housekeeping matters.
29. **POST VERDICT MEETING WITH JURORS:** It is the court's practice to meet with jurors after the trial to thank them, address any questions or concerns, and to hear their feedback. Counsel will be provided with an opportunity afterward to meet with the jurors. This often provides feedback about the trial and some insight into the juror decision making process. Jurors are advised that the meeting with attorneys is voluntary

and that they have no duty to talk to attorneys or anyone else concerning their experiences as jurors.

30. **RELATION TO OTHER ORDERS:** Counsel should refer to the case management order and other orders which are issued in this case for further instructions.
31. **DISAGREEMENTS/OTHER MATTERS:** If any counsel has any disagreements with any of the above matters, or there is any matter which requires resolution in order to expedite the efficient completion of the trial, counsel should bring this to the court's attention in order that the disagreement or other matter may be promptly resolved.

JUDGE JERRY R. McBRIDE

**COURT OF COMMON PLEAS
CLERMONT COUNTY, OHIO**

LIST OF EXHIBITS

Case Number _____

Date _____

Title of Case _____

vs. _____

() Plaintiff's Exhibits (list numerically)

() Defendant's Exhibits (list alphabetically)

Ex. No	Description	Stipulated	Objection	Basis for Objection*	Response to Objection*

*Specific reference must be made to the Rules of Evidence with explanation.

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CLERMONT COUNTY, OHIO**

DEPOSITIONS TO BE USED AT TRIAL

Case Number _____

Date _____

Title of Case _____

vs.

Page # of Objection	Objection Withdrawn	If Not Withdrawn, Basis For Objection	Response to Objection

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Order was sent by e-mail on _____ to all
counsel of record and by regular U.S. mail to any unrepresented parties.

Secretary to Judge McBride