

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR HERNANDO COUNTY, FLORIDA

**COMBINED CMC/PRETRIAL
ORDER SCHEDULING CAUSE FOR
PRE-TRIAL CONFERENCE AND JURY TRIAL
Scaglione "DS" Division, Effective January 1, 2025**

THIS CAUSE having come before the Court, and it is appearing that the above cause is at issue as defined in Fla. R.C.P. 1.440, and is ready for trial, it is upon consideration

ORDERED that a Pre-Trial Conference in this cause will be held on _____ before the Honorable Donald E. Scaglione, Circuit Judge, at the Hernando County Courthouse, 20 North Main Street, Fourth Floor, Courtroom "F", Brooksville, Florida.

This case is designated as General or Complex, the Court notes a Motion, and hearing is required to designate a case complex.

NOTICE: IT IS THE PLAINTIFF'S RESPONSIBILITY TO SERVE THIS ORDER TO EACH DEFENDANT, OBTAIN PROOF OF SERVICE AND FILE PROOF OF SERVICE INTO THE COURT FILE.

IN PERSON APPEARANCES ARE WELCOME BUT BOTH COURTCALL AND ZOOM HEARINGS ARE ALSO PERMITTED. SEE BELOW FOR EACH OPTION AND PROCEDURES.

THIS COURT USES COURTCALL FOR ALL TELEPHONIC HEARINGS AND ALL PARTIES MUST SET UP THEIR OWN TELEPHONIC APPEARANCE THROUGH COURTCALL. (See Courtcall.com or call 1-888-882-6878. You must also provide a motion and order to appear by phone) PRO-SE PARTIES MUST ALSO SET UP COURTCALL FOR PHONE APPEARANCE (See Courtcall.com or call 1-888-882-6878) AND CONTACT THE COURT PRIOR TO THE HEARING DATE AT bhaimes@circuit5.org TO CONFIRM WITH THE COURT YOU HAVE ARRANGED YOUR APPEARANCE.

IF A VIRTUAL HEARING VIA ZOOM IS PREFERRED, PLEASE SEE ZOOM PROCEDURES FOUND ON THIS COURT'S WEBPAGE. IT IS THE PARTIES

RESPONSIBILITY TO FOLLOW ALL PROCEDURES/INSTRUCTIONS FOR ZOOM HEARINGS.

*****THE COURT REQUIRES ACKNOWLEDGMENT OF THE ABOVE BY RECEIPT OF A MOTION AND ORDER (COURTCALL), NOTICE OF ZOOM HEARING OR INVITATION TO THE COURT (ZOOM APPEARANCE), OR EMAIL (ACKNOWLEDGING PERSONAL APPEARANCE) WITHIN 5 WORKING DAYS PRIOR TO HEARING DATE.*****

Florida Rule of General Practice and Judicial Administration 2.250(a)(1)(B) states that the presumptively reasonable period of time for the resolution of a civil jury case is eighteen (18) months.

Florida Rule of General Practice and Judicial Administration 2.545(a) requires judges and lawyers to “conclude litigation as soon as it is reasonably and justly possible to do so.”

All parties are directed to strictly comply with the “Order Regarding Courtesy Copies to the Presiding Judge,” located on the Circuit 5 website under the Honorable Donald E. Scaglione webpage. **This Includes the Parties’ Requirement of Sending the Court a Courtesy Copy of Any and All Motions/Notices Filed in this Matter and the Responses/replies Thereto.**

Failure to provide the Court with a courtesy copy will potentially delay a ruling on said motion because the Court will not be made aware of the pending matter. Failure to comply with the motion practice procedures may result in the pending motion being stricken, granted, or denied, by default.

All parties are further directed to strictly comply with the “Administrative Order Establishing Motion Practice Procedures for the Civil Jury and Civil Non-Jury Docket for the Honorable Donald E. Scaglione Circuit Civil Division,” entered on February 28, 2020. This is also located on the Circuit 5 website under the Honorable Donald E. Scaglione webpage.

Warning as to Generative Artificial Intelligence:

An attorney must be aware of the benefits and risks of Generative Artificial Intelligence applications.

An attorney must comply with Rule 4-1.1 Competency, 4-1.6 Confidentiality, Rule 4-5.1 Supervision, Rule 4-5.3 Supervision of non-lawyers.

Attorneys remain responsible for all their work product.

See Florida Bar Ethics Advisory Opinion 24-1, January 19, 2024.

If any Generative AI is used, you must note its use on the pleading to the Court.

Pro-Se warning as to Generative Artificial Intelligence:

If you choose to use programs that rely on Generative Artificial Intelligence (AI) to prepare any documents, you should check them carefully before filing with the court. Generative AI-based programs are not a substitute for competent legal counsel. While they may be useful, there is a risk that they may produce inaccurate arguments, false citations, or bad advice. As a self-represented litigant, you must do your best to check the accuracy of anything you submit to the court.

IT IS FURTHER ORDERED that:

All counsel are charged with the duty of meeting and complying with the requirements of this pre-trial order, however counsel for the Plaintiff must initiate the procedure for compliance. (Note: In this order, plaintiff also means petitioner. Plaintiff and Defendant also mean the plural. The terms “attorney”, “counsel”, and the terms of this order apply equally to pro se litigants. This order applies equally to cross-claimants, cross-defendants, third-party plaintiffs, and third-party defendants, where applicable.) References to jury trial requirements are applicable only to cases to be resolved by a jury.

1. Each party, unless self-represented, shall be represented in court at the Pre-Trial Conference by the attorney who will conduct the actual trial, and who shall be familiar, not only with the provisions and purposes of Fla. R. Civ. P. 1200 and 1201, but with his or her own evidence, and who shall have full authority to make disclosures of facts, to admit and/or stipulate to any undisputed facts and to waive technical requirements for admission of evidence, and with authority to settle the case. Each party’s client(s) shall be available for consultation with counsel.

Failure of the parties and counsel to attend the pre-trial conference as herein ordered may result in Dismissal or entry of a Default Judgment against the absent party. Each party (unless pro se) shall be represented in the courtroom by an attorney who expects to conduct the actual trial. Counsel shall come prepared to state a computed settlement figure acceptable to their party based upon the facts that they are ready to prove at trial. Defendant shall have someone with the authority to settle up to the amount of plaintiff’s last demand.

2. **INITIAL WITNESS DISCLOSURE (MANDATORY)**: See attachment “A” – DCMS timetable.

3. ALL DISCOVERY **SHALL** BE COMPLETED BY ONE WEEK PRIOR TO THE DATE OF THE PRE-TRIAL CONFERENCE, including, but not limited to, all depositions, interrogatories, requests for admissions, etc., unless the Court orders otherwise. Discovery will be allowed after the Pre-trial Conference *only* upon good cause shown. Discovery conducted after this time period shall only be permitted on the order of the Court for good cause shown.

4. **DISPOSITIVE MOTIONS**: All motions for summary judgment, motions to dismiss, and other dispositive motions must be timely and properly set and noticed pursuant to the applicable Florida Rules of Civil Procedure and **heard** (if applicable and in accordance with the Administrative Order Establishing Motion Practice Procedure) no later than **forty-five (45) days** prior to the date set for Pre-trial conference hearing. Failure to specifically follow this mandate may result in the court refusing to set/hear such motions and/or the court striking same for failure to follow these time guidelines, or the court taking other appropriate actions and/or issuing sanctions against the offending party or counsel.

5. **MOTIONS IN LIMINE**: This Court's procedural Order regarding motions in limine is hereby invoked. (See 5th Circuit website/Hernando Judges/Scaglione)

6. **Mediation shall be completed prior to the Pre-Trial Conference** in accordance with the terms of this Court's Order of Referral to Mediation which shall issue forthwith, if appropriate. (ie: Separate Order issued by the Court)

The following rules for mediation must either be specially listed in the mediation order or be incorporated therein by reference:

- a. The personal appearance of counsel who will try the case **and** their clients (a management representative if a corporate party) with full authority to enter into a full and complete compromise and settlement is mandatory. An insured party must have a fully authorized representative, not just the attorney for the insurance company, attend the mediation conference along with the client(s). The insurance representative **must have written authority** to settle the case up to the policy limits, and **must** present the authority to the mediator at the beginning of the mediation session.
- b. The Court will impose sanctions for all parties that do not personally attend the conference. The participants must be prepared to spend as much time as necessary to settle the case or until an impasse is declared by the mediator.
- c. The parties may present a brief written summary of the facts and issues to the

mediator five (5) days before the conference.

- d. All discussions, representations and statements made at the mediation conference are privileged as settlement negotiations.
- e. Unless agreed otherwise by the parties, the mediator must be compensated equally by the parties.

(Mediation will not be required in any case where the sole claim is for forfeiture under F.S. Sec. 932.701 if both parties stipulate that it would not be fruitful.)

7. **EXHIBIT CONFERENCE: COUNSEL SHALL CONFER PRIOR TO THE DATE SET FOR THE PRE-TRIAL CONFERENCE** relative to the following:

- A. The admissibility of exhibits and documentary evidence and reservations of objections pertaining only to relevancy and materiality, waiving those relating to authenticity and/or requirements for custodians;
- B. Any matter of law or fact about which there is no issue;
- C. Any matters that would simplify the issues or aid in the speedy disposition of the action; and
- D. Possible settlement.

8. **WILLFUL FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER MAY RESULT IN THIS COURT ISSUING A CONTEMPT OF COURT CITATION, OR ISSUING OTHER APPROPRIATE SANCTIONS.**

9. At least **FIVE (5) DAYS PRIOR TO THE PRE-TRIAL CONFERENCE**, counsel shall deliver, by mail, personally or by email (courtesy copy link located on this Court's webpage), to the undersigned at 20 North Main Street, Room 444, Brooksville, Florida, and a copy thereof to opposing counsel, the following:

- A. A brief memorandum setting forth the general nature of the proceedings, including:
 - i. the names of all parties;
 - ii. factual contentions of each party;
 - iii. type of action and relief sought;
 - iv. defenses interposed;
 - v. type of counterclaim, if any, and the relief sought thereby; and
 - vi. all facts either party will admit.
- B. A schedule of all exhibits and documentary evidence which may be used

at trial; **ANY EVIDENCE NOT SPECIFICALLY LISTED CANNOT LATER BE USED IN THE TRIAL OF THIS CAUSE WITHOUT LEAVE OF COURT.** Said leave of Court being granted only upon a showing of good cause why said evidence was not listed.

- C. A witness list of the names and addresses of all individuals who may be called to testify at trial; **ANY WITNESSES NOT LISTED CANNOT LATER BE USED IN THE TRIAL OF THIS CAUSE WITHOUT LEAVE OF COURT.** Said leave of Court being granted only upon a showing of good cause why said witness was not listed.
- D. Any requests for preliminary rulings on questions of law and citations in regard thereto. Such requests will be made by way of Motion and accompanying Memorandum in accordance with the terms of this Court's Order Establishing Motion Practice Procedure.
- E. Jury Instructions:
- i. Plaintiff shall submit proposed general instructions as to the cause of action and Defendant shall submit proposed defense or special instructions sought.
 - ii. A copy of all Jury Instructions and Verdict Form are to be copied on a CD and brought to the Trial by Counsel.
- F. Statement of Cause: Each party shall submit a proposed statement of the case for jury instructions.

10. Counsels are encouraged to stipulate to admissibility of evidence listed in their respective pre-trial memos.

11. **UNIQUE QUESTIONS OF LAW:** No later than the day of commencement of the trial, counsel for the parties are directed to submit to the Court appropriate memoranda with citations to legal authority (and copies thereof), in support of any unique legal questions which may reasonably be anticipated to arise during the trial.

12. Any record made in the course of the Pretrial Conference proceedings shall be deemed part of the record made upon the trial of this cause, exempting statements relative to settlement. Counsel shall come prepared to state a computed settlement figure acceptable to your party, based upon damages and liability that can be proven. If counsel desires a transcript of the Conference, arrangements should be made for it to be taken at his/her own expense.

13. The trial of this cause shall be reported unless waived by all parties, and it is the responsibility of Counsel for Plaintiff to ensure the presence of a qualified reporter for that purpose. Counsel are encouraged to stipulate to designation of a reporter at or prior to the Pre-Trial Conference, if one is desired for pre-trial or trial.

14. Each attorney of record shall immediately notify the Court in the event of settlement of their case. **In the event a last-minute settlement is reached between the parties, the Court, court reporter, parties and witnesses must be specifically and immediately advised of same. Failure to notify the Court, so that summoning of the jurors may be canceled, may result in sanctions, including fines equal to the expenses incurred in summoning a jury, when a trial is not conducted.**

15. **CONTINUANCES: Continuances will not be granted without good cause.** All motions for continuances must be in writing, good cause must be shown, and will generally be looked upon with disfavor unless extenuating circumstances are present. Inability to require attendance of witnesses at trial **shall not be the basis for continuance** of the trial unless witness subpoenas have been issued and delivered to the Sheriff or other qualified process server for service at least **twelve (12) days prior** to date of trial.

ANY MOTION TO CONTINUE MUST COMPLY WITH FLORIDA RULE OF CIVIL PROCEDURE 1.460, INCLUDING REQUIREMENT OF SIGNATURE BY THE PARTY REQUESTING CONTINUANCE.

16. **OUTSTANDING MOTIONS:** The decision on whether to consider outstanding motions at the pre-trial conference lies in the exclusive discretion of the trial court. **THE COURT WILL NOT CONSIDER ANY OUTSTANDING MOTIONS AT THE PRE-TRIAL CONFERENCE BASED SOLELY AT THE REQUEST OF COUNSEL, UNLESS** a request for such has been submitted prior to and thereby granted and scheduled by this Court. The Motion Practice Procedure Order generally controls motions. Nevertheless, the Court **may** consider outstanding motions if sufficient time remains and all sides so consent.

17. A trial priority order shall be issued from the Court subsequent to the Pre-Trial Conference. Generally, trials will be conducted approximately thirty (30) days following the Pre-Trial Conference. Scheduled trials that are not conducted will generally be moved to (after a Case Management Conference) a new trial term, and a new trial priority order will then be issued for that period. Trial priority is generally set based on the oldest case filing number.

18. **COMPLIANCE REQUIRED:** All counsel are directed to comply with this pre-

trial order. Any failure on the part of any counsel to act in good faith and reasonably attempt to comply with this pre-trial order should be reported to the Court by the filing of a “Suggestion of Non-compliance With Pre-Trial Order”, and must be set in a timely manner for a hearing by the reporting party. A copy of the Suggestion of Non-compliance must be served on all counsel and sent to the Court. The Suggestion of Non-compliance should name the attorney alleged to be in non-compliance and state the non-compliance.

19. **SANCTIONS**: Failure to appear at Pre-Trial may result in the dismissal of the plaintiff’s case if the plaintiff fails to appear, or the entry of a default against the defendant if the defendant fails to appear. Failure to comply with this Order may also result in other sanctions being imposed, including, but not limited to attorney’s fees, costs and striking of pleadings. Should a default be entered, trial will be held on any remaining issue of damages.

20. **CASE DISPOSITIONS**: If at any time after the entry of this order, this case is dismissed, or results in a completed settlement, Counsel must immediately notify this Court’s Judicial Assistant to remove the case from the docket call or trial docket. (Due to the volume of cases pending, Counsel should not assume that the submission of a copy of the dismissal or the settlement paperwork would satisfy this requirement. Counsel must make notification in writing via email to bhaimes@circuit5.org). **Counsel must expeditiously file all paperwork necessary to close the case.**

21. **FACSIMILE TRANSMISSIONS**: Pleadings submitted to the Court may **NOT** be transmitted by facsimile. Parties are to use the pleading link on the 5th Circuit website at Hernando/Judges/Scaglione.

22. Trials not reached within Trial docket period: Any case not reached will be scheduled for an expedited hearing for rescheduling. All parties shall have their calendars and witness availability to reset the trial.

23. **DURING THE SCHEDULED UNIFORM TRIAL TERM, COUNSEL WILL BE PREPARED TO COMMENCE THEIR TRIAL SHORTLY UPON NOTIFICATION BY THE COURT THAT THEIR CASE HAS ADVANCED ON THE TRIAL DOCKET.**

THE TRIAL IN THIS CAUSE IS SCHEDULED TO COMMENCE DURING THE 1 WEEK TRIAL TERM BEGINNING AT 8:15AM, IN COURTROOM “F”, FOURTH FLOOR, HERNANDO COUNTY

COURTHOUSE, 20 N. MAIN STREET, BROOKSVILLE, FLORIDA
34601.

Additionally, the case is set for its **first** Status Conference before the **General Magistrate, Yolanda Romagnolo**. Contact the Magistrate's Office (kcorden@circuit5.org) for any issues regarding these Status Hearings, **which includes all motions and orders to appear by phone** for these hearings (all motions and orders to appear by phone **must be provided to the Magistrate at least 5 working days prior to hearing date or the party WILL NOT be allowed to appear by phone**) as stated below:

****THE COURT NOTES, AT THIS TIME THE MAGISTRATE IS HEARING CASES VIA ZOOM. HER ASSISTANT IS SENDING ZOOM LINKS OUT FOR THE STATUS HEARINGS THE FRIDAY PRIOR TO THE HEARING DATE. PLEASE CONTACT THE MAGISTRATE'S OFFICE AT THE EMAIL ABOVE IF YOU HAVE ANY FURTHER QUESTIONS. ****

The first Status Conference Hearing shall be held **on**, at the Hernando County Courthouse, 20 North Main Street, Fourth Floor, Room 442, Brooksville, Florida, 34601. Time allowed: 15 minutes.

The case shall additionally be set for a **second** Status Conference before trial before the **General Magistrate, Yolanda Romagnolo**:

The second Status Conference Hearing shall be held **on**, at the Hernando County Courthouse, 20 North Main Street, Fourth Floor, Room 442, Brooksville, Florida, 34601. Time allowed: 15 minutes.

Counsel may appear by telephone **via Court Call only** for the Status Hearings above, **with prior approval by the General Magistrate**. Prior approval shall be provided by submission of a motion and order to appear by phone, to be **sent to the magistrate** for signature approval, by each party requesting telephonic appearance. **NO PARTY will be allowed telephonic appearance unless motions and orders are received 5 days prior to hearing date.**

This cause is referred to the General Magistrate for the purpose of Status Hearings only. In accordance to Florida Rules of Civil Procedure, Rule 1.490, no reference shall be to a magistrate, either general or special, without the consent of the parties. An electronic recording

will be used to create a record of the proceedings. Any party may have a court reporter transcribe the record of the proceedings at that party's expense. If any party fails to appear, the magistrate may proceed ex-parte or may adjourn the proceeding to a future day, giving notice to the absent party of the adjournment.

The parties are hereby noticed that the Court reserves the right to require Non-Binding Arbitration or Summary Jury Trial to aid in the disposition of this action, and to ensure the just, speedy, and inexpensive determination of this action so that other cases also may be tried. See Florida Rule of Civil Procedure 1.200(a)(10)(13), *Arabian American Oil Co. v. Scarfone*, 939 F.2d 1472 (11th Cir. 1991); *Lambros, The Summary Jury Trial and Other Alternative Methods of Dispute Resolution, A Report to the Judicial Conference of the United States*, 103 F.R.D. 461 (1984).

24. Parties are directed to this Court's website and must be familiar with and comply with Administrative Orders.

DONE AND ORDERED in Chambers at Brooksville, Hernando County, Florida, this _____ day of January, 2025.

Donald E. Scaglione, Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was furnished by E-Service Delivery to the following addressees this _____ day of January, 2025.

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Judicial Assistant

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 ADA Coordinator at the Office of the Trial Court Administrator, Hernando County Courthouse, 20 North Main Street, Room 300, Brooksville, Florida 34601, Telephone (352) 754-4402, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711. Rule 2.540, Fla.R.Jud.Admin.

Events	Case Completion Periods:
Service of Complaints	120 Days
Service Under Extensions	240 Days
Addition of New Parties	240 Days
Completion of Fact & Expert Discovery	270 Days Streamline 450 Days General 500 Days Complex
Objection to Case Differentiation	30 Days
Objections to Pleadings	20 Days
Resolution of All Pretrial Motions	Prior to Pretrial Hearing
Mediations	270 Days Streamlined 450 Days General At least 45 Days Prior to Pretrial Hearing
Trial	12, 18 or 30 months
Deadline for Plaintiff(s) to file witness list	120 days before pretrial
Deadline for Defendant(s) to file witness list	90 days before pretrial
Deadline for filing any dispositive motions	120 days after close of fact discovery
Deadline for filing any <i>Daubert</i> motions	30 days after the close of expert discovery, filed before Pretrial
Deadline to have any dispositive and <i>Daubert</i> motions heard	45 days before the pretrial Note: If not heard by this date, dispositive and <i>Daubert</i> motions will be deemed abandoned
Deadline to file Exhibit List	21 days before the pretrial conference
Date of Meeting Prior to Pretrial Conference	10 days before the pretrial
Deadline for filing: The joint final pretrial statement, Any motion in limine, Objections to depositions, Proposed jury instructions, and Verdict form	14 days before the pretrial conference Note: If not filed by this date, motions in limine will be deemed abandoned.
Date and Time of Pretrial Conference	To be set Per CMC/Pretrial Order
Deadline to contact Court Technology if use of trial technology is contemplated	7 days before trial.

See SC 2023-962 & SC 2024-662
Effective January 1, 2025

Attachment "A"

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