

APPENDIX

133

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NUMBER: 2018-CA-010270-O

DIVISION: 37

WILLIAM WINDSOR,

Plaintiff,

vs.

ROBERT KEITH LONGEST, BOISE
CASCADE BUILDING MATERIALS
DISTRIBUTION LLC.

Defendants.

..... /

**UNIFORM ORDER SETTING CASE FOR JURY TRIAL;
PRE-TRIAL CONFERENCE AND REQUIRING PRETRIAL
MATTERS TO BE COMPLETED**

It appearing that this case is at issue and ready to be set for trial, it is **ORDERED** as follows:

1. **FAMILIARITY WITH THIS ORDER.** Counsel and prose (unrepresented) parties shall read this order, be familiar with its contents and comply with its requirements. **FAILURE TO COMPLY WITH ALL REQUIREMENTS OF THIS ORDER MAY RESULT IN THE IMPOSITION OF SANCTIONS.**

2. **REFERRAL TO MEDIATION: DEADLINE.** This case is hereby referred to mediation. The parties shall immediately consult and agree on a mediator and a date for mediation. Plaintiffs counsel shall submit a proposed Mediation Order to the Court within ten (10) days of the date of this Order. Court-ordered mediation must be completed prior to the PreTrial Conference. Any party may move to defer or dispense with mediation upon good cause shown.

3. **TRIAL DATE.** This case is set for a Jury Trial during the two (2) week trial docket beginning **May 22, 2023, at 9:30 a.m.**, in Courtroom 18-C at the Orange County Courthouse, 425 Orange Avenue, Orlando, FL.

Length of time estimated for trial is **four (4) days.**

**TRIAL MANAGEMENT CONFERENCE SET FOR May 15, 2023 AT 9:30 A.M.
(Courtroom TBA).**

4. **PRE-TRIAL CONFERENCE.** Lead Trial Counsel and pro se parties shall attend a Pre-Trial Conference on **April 10, 2023, at 9:00 a.m.** For Pre-Trials, please use the static video link <https://ninthcircuit.webex.com/meet/ctjuja4>

5. EXPERT WITNESSES; DISCLOSURE; DEADLINES; TESTS, EXAMINATIONS AND EXPERIMENTS.

(a) No less than 120 days before the Pre-Trial Conference, Plaintiff(s) shall disclose the expert witnesses (including treating experts) that in good faith, Plaintiff(s) actually intends to testify at trial.

(b) Within fifteen (15) days of the Plaintiff(s)' disclosure of experts, the Defendant(s) shall disclose the expert witnesses that in good faith, Defendant(s) actually intends to testify at trial.

(c) As used herein, "disclose" means furnishing in writing (i) the expert's name, business address and telephone number, (ii) his or her curriculum vitae or qualifications, (iii) his or her medical specialty or field of expertise, (iv) a statement of the specific subjects upon which the expert will testify and offer opinions and (v) the party or parties against whom the expert will be called to testify. Any changes in an expert's opinion or changes in the basis of the expert's opinion must be disclosed to all parties no less than sixty (60) days prior to the Pre-Trial Conference.

(d) Parties disclosing expert(s) shall provide opposing counsel three (3) proposed deposition dates for each expert disclosed. Opposing Counsel shall select one of the dates provided within five (5) business days of receipt of disclosure or request additional dates. If requested, new deposition dates shall be provided to opposing counsel within five (5) days of the request. The party receiving the alternate dates shall select one of the dates provided within five (5) days of the receipt thereof. The parties shall attend ex parte or short matters before the undersigned within ten (10) days if, at this point, the parties are unable to schedule expert depositions.

(e) All out-of-court testing, experiments or physical or mental examinations by experts must be completed prior to the expert's deposition.

6. EXCHANGE OF WITNESS LISTS AND EVIDENCE SCHEDULES. No less than sixty (60) days before the Pre-Trial Conference, attorneys and pro se parties shall serve the following:

(a) A list of all witnesses including potential impeachment and rebuttal witnesses who may testify at trial. The list shall provide the name, address and telephone number of the witness and shall specify whether the witness is a liability, damage, rebuttal or impeachment witness.

(b) A schedule of all exhibits, including depositions, a party may offer at trial, lettered sequentially. Exhibits shall be described with specificity. For example, "all medical records" is insufficient.

7. ADDITIONAL REQUIREMENTS PRIOR TO PRETRIAL CONFERENCE.

(a) Deposition designations. No less than 30 days prior to the Pre-Trial Conference, each party shall serve designations of the depositions it intends to offer at trial. No less than 20 days prior to Pre-Trial Conference, the parties shall serve counter (or "fairness") designations. Disputes over deposition designations must be heard by the Court before the first day of Trial. If the parties cannot resolve disputes over deposition designations, and no hearing time can be coordinated, the parties shall submit a properly marked copy of the transcript and a proposed order identifying the page and line of objections that must be ruled on by the Court.

(b) Jury Instructions. The parties shall exchange proposed jury instructions and verdict forms no later than thirty (30) working days prior the Pre-Trial Conference.

(c) No later than fifteen (15) days prior to the Pre-Trial Conference, lead counsel and pro se parties, if any, shall meet. Live attendance at this meeting by Lead Trial Counsel is mandatory, unless COVID guidelines are in place.

At the meeting the attorneys, and pro se parties shall:

- I. Discuss and attempt to settle the case.
2. Produce all documents to be offered at trial. Exhibits must be Bates stamped in any case in which more than 100 exhibits are involved.
3. Examine, and initial every exhibit to be produced by the opposing side(s) at trial. The Parties shall agree on those exhibits which will be admitted as joint exhibits and those which can be admitted without objection. The parties shall

then identify all other exhibits and specify any objections thereto. "Exhibit Schedules" shall then be prepared reflecting these separate categories of exhibits for each Party. The Exhibit Schedules for each party shall be attached to the Joint Pre-Trial Statement described below. **OBJECTIONS NOT NOTED ARE WAIVED.**

4. Review opposing parties' witness lists. Witness lists for each Party shall be attached to the Joint Pre-Trial Statement described below.
5. Discuss and stipulate to any facts requiring no proof at trial.
6. Discuss, clarify and frame all factual issues of fact to be tried.
7. Identify all legal, procedural or evidentiary issues to be decided prior to or during trial.
8. Discuss any evidentiary stipulations.
9. Agree upon and draft a concise statement of the case to be read by the Court at of voir dire.
10. Discuss the proposed jury instructions (voir dire through closing) and verdict forms. Discuss whether the Court will instruct the jury on the law prior to opening statements and, if so, which jury instructions are to be read at that time. For Standard Jury Instructions - Civil Cases, see www.floridasupremecourt.org. The parties shall prepare the following:
 - (i.) All Agreed Jury Instructions, including Supreme Court instructions for, if applicable, voir dire, instructions prior to opening, instructions prior to closing argument and instruction(s) following closing arguments
 - (ii.) All disputed instructions identifying the Party proposing it/them and the phase of the Trial for which the instruction is proposed.
 - (iii.) The above versions of Jury Instructions shall be prepared to include a cover page reflecting the style of the case, an appropriate title, with instructions following in paragraph form without Jury Instruction numbers, headers or brackets. Instructions shall be 14-point, Times New Roman and double spaced. Pages shall be numbered.

(iv.) The proposed jury instructions and verdict form(s) shall be provided to the Court at the Pre-Trial Conference in hard copy AND digital copy to the Judicial Assistant at 37orange@ninthcircuit.org **in WORD FORMAT.**

11. Discuss and attempt to agree upon any other matters leading to a more orderly and expeditious trial

12. Discuss and exchange all demonstrative aids.

8. JOINT PRE-TRIAL STATEMENT. No less than ten (10) days before the Pre Trial Conference, Plaintiffs attorney (or Defendant's attorney, if Plaintiff is prose) shall serve a "Proposed Joint Pre-Trial Statement" reflecting any and all agreements and disputes as to the matters listed below. The Parties shall immediately thereafter attempt to resolve any disputes in the Proposed Joint Pre-Trial Statement. A Joint Pre-Trial Statement addressing the matters described below shall then be prepared, filed and served no less than five (5) days before the Pre Trial Conference. If the Parties are unable to agree on the contents of the Joint Pre-Trial Statement, the differing views should be set forth therein.

The Joint Pre-Trial Statement shall contain the following:

1. A statement of the case to be read to the jury at the beginning of voir dire.
2. A statement of admitted facts which may be read at trial as a stipulation of counsel.
3. Issues of fact to be tried.
4. Unresolved issues of law, procedure or evidence.
5. Each party's witness list.
6. Each party's schedule of exhibits with objections.
7. Any stipulation on evidentiary matters specifying the applicable matters to which such stipulation applies, i.e. authenticity, hearsay exceptions, etc.
8. The number of peremptory challenges.

9. Estimate the number of jurors requested for the venire panel.
10. A current estimate of the number of days required for trial.
11. The specific category of damages, including attorneys' fees, claimed by each party and, when possible, the amount of such damages sought by each party.
12. Designation of Lead Trial Counsel. No change of Lead Trial Counsel may be made without leave of the Court, if such change disrupts the trial schedule.
13. A list of all outstanding motions and date/time of any hearing thereon.

9. DISCOVERY CUT-OFF. Discovery closes on the day prior to the Pre-Trial Conference unless extended by Court order for good cause shown. All depositions and CME reports must be completed, answers to interrogatories, responses to request to produce and requests for admissions served by this date. Joint Stipulations to extend discovery without Court order does not alter the discovery cut-off.

10. MOTIONS CUT-OFF DEADLINE.

- (a) All motions, including Daubert motions, and other than motions in limine, must be **FILED AND HEARD** at least thirty (30) days prior to the Pre-Trial Conference. Late-filed motions are subject to summary denial.
- (b) Motions in Limine or motions to exclude witnesses or evidence or motions directed to the conduct of the trial must be filed and served prior to the Pre-Trial Conference. Motions in Limine must be scheduled and heard no later than one week prior to the beginning of the trial period. No Motions in Limine will be heard during the trial period, absent good cause.
- (c) No Motions may be scheduled for hearing unless they contain a certification of good faith attempt to resolve the matter at issue.

11. TRIAL BRIEFS. Trial briefs are optional but if one is filed, a copy for the Court shall be delivered to Chambers no less than five (5) working days before trial. Highlighted copies of relevant legal authorities must accompany the copy delivered to the Court.

12. NOTIFICATION OF SETTLEMENT. The parties shall immediately notify the judicial assistant of a settlement by phone and email followed within five (5) business days by a filed Notice of Settlement signed by all parties. Noncompliance with this paragraph will result in the case remaining on the docket as well as the possible imposition of other sanctions.

13. **MODIFICATION OF ORDER FOR GOOD CAUSE.** The provisions of this Order may be modified only by Court order in accordance with applicable law.

14. **SANCTIONS.** Failure to attend the meeting of attorneys required in paragraph 7(c), the Pre-Trial Conference, or trial or to otherwise strictly comply with the requirements of this Order may result in the imposition of appropriate sanctions, including but not limited to, contempt, dismissal, default, striking of pleadings, exclusion of evidence, assessment of fees or costs.

15. **AUDIOVISUAL.** Requests for audio and/or visual equipment must be made at least 48 hours in advance of trial. For assistance, see the Court's web site, www.ninthcircuit.org under Services, then Technology Services, then Audio/Visual.

16. **ADDITIONAL GUIDELINES:** Counsel are charged with reading and being familiar with the contents of the following Division 37 documents: (i) Guidelines, Procedures and Expectations; (ii) Guidelines for Counsel Regarding Compulsory Medical Examinations; and (iii) Ninth Circuit Courtroom Decorum Policy (*Amended, September 2014*).

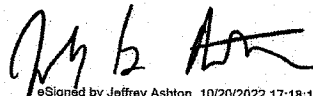
17. **DIVISION SPECIFIC GUIDELINES.** A copy of the additional guidelines applicable to the division in which this matter will be tried is attached as Exhibit A.

18. **SUMMARY OF DEADLINES.** For scheduling purpose only, see Attached Summary of Deadlines.

19. **CASE MANAGEMENT ORDERS.** If a Case Management Order has been, or is subsequently, entered in this matter, any conflicts between this "Uniform Order" and the "Case Management Order" will be resolved in favor of the Case Management Order in this particular case.

DONE AND ORDERED in Chambers at the Orange County Courthouse, Orlando, Florida

this 20th day of October, 2022.



eSigned by Jeffrey Ashton 10/20/2022 17:18:16 kwuuHgtQ

Jeffrey L. Ashton
Circuit Judge

S. Mitchell, Case Manager to Judge Jeffrey L. Ashton

Copies furnished to:

A copy of the foregoing has been electronically filed with the Clerk of Courts by using the Florida Court E-Filing Portal.

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, Human Resources, Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, Florida, (407) 836-2303, 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.

EXHIBIT A - for JURY TRIAL CASES

Additional Pretrial Guidelines for Division 37

A. SCHEDULING OF MOTIONS IN LIMINE:

Motions in Limine must be scheduled and heard no later than one week prior to the beginning of the trial period. Hearing time is limited and counsel should not assume that hearing time will be available for motions filed, but not heard, before pre-trial conference. No Motions in Limine will be heard during the trial period absent a showing of good cause. Counsel must comply with the Division 37 Procedures for Hearings and Rulings on Motions in Limine.

B. ADDITIONAL GUIDELINES:

Counsel are charged with reading and being familiar with the contents of the following Division 37 documents: (i) Guidelines, Procedures and Expectations; (ii) Guidelines for Counsel Regarding Compulsory Medical Examinations; and (iii) Ninth Judicial Circuit Courtroom Decorum Policy (*Amended, September 2014*).

SUMMARY OF DEADLINES

Mediation shall be completed **prior to Pre-Trial Conference.** (§2)

Plaintiffs Expert Witness list with deposition dates, due **120 days prior to Pre-Trial Conference.**
(§5a; 5d)

Defendant's Expert Witness list with deposition dates, due **within 15 days of Plaintiff's disclosure.**
(§5b; 5d)

Exchange of Witness Lists and Exhibit Schedules - **60 days before date of Pre-Trial Conference.** (§6)

Deposition Designations completed no later than **30 days prior to the Pre-Trial Conference.**
Counter Designations no later than **20 days prior to the Pre-Trial Conference.** (§7a)

Meeting of Attorneys **15 days prior to Pre-Trial Conference.** (§7c)

All Motions, including Daubert motions, other than motions in limine, must be filed **and heard at least 30 days prior to Pre-Trial Conference.** (§10a)

Motions in Limine must be filed **prior to Pre-Trial Conference.** (§10b; Exhibit A, §B)
Must be heard no later than **one week prior to first day of trial period.** (§10b; Exhibit A, §B)

Jury Instructions/Verdict forms exchanged no later than **30 days prior to the Pre-Trial Conference.** (§7b). Jury Instructions/Verdict forms shall be presented to the Judge **at the Pre-Trial Conference.** (§7c, 10, iv.)

Joint Pre-Trial Statement signed by attorneys/pro se parties due **no less than 5 days before Pre-Trial Conference.** (§8)

Discovery Cut-Off is **1 day prior to Pre-Trial Conference.** (§9)

Trial briefs (optional) due **5 working days prior to Trial.** (§11)

DIVISION 37
ORDER CONTROLLING TRIAL AND PRE-TRIAL
CHECKLIST

(Pursuant to Fla. R. Civ. P. 1.200(d))

Email completed checklist to 37orange@ninthcircuit.org at
least three (3) business days before the Pre-Trial Conference

CASE #: _____ -CA _____ -O _____ **P/T**
DATE: _____ / _____ /20 _____ **CASE**
STYLE: _____ vs _____

Attorney(s) for Plaintiff(s)

_____ for
_____ (1)

_____ for
_____ (2)

Attorney(s) Defendant(s)

_____ for
_____ (1)

_____ for
_____ (2)

_____ for
_____ (3)

Circle or Check the following as Appropriate:

1. Jury / Non-Jury
 Duration: _____ Hours/Days
 Court Reporter provided by: Pltf. or Def. # _____
 Def. # _____
 Yes / No opening
 Interpreter: Yes / No: Pltf. or Rule of Sequestration Invoked?
 If YES: Before voir dire /

2. JOINT PRE-TRIAL STIP. filed? Yes / No
 If "No," will be filed by: _____
Jury Trials Only: Statement of case to be read to venire: Yes / No In Jt. Stip.: Yes / No

	<u>Witness List</u> Filed?	<u>Exhibit List</u> Filed?	<u>Expert List.</u> Filed?	<u>P/T Statement</u> Filed?
Plaintiff:	Y / N	Y / N	Y / N	Y/N
Defendant (1):	Y / N	Y / N	Y / N	Y/N
Defendant (2):	Y / N	Y / N	Y / N	Y/N
Defendant (3):	Y / N	Y / N	Y / N	Y/N
Defendant (4):	Y / N	Y / N	Y / N	Y/N

3. EXHIBITS: Must be Exchanged / Pages must be numbered and initialed / Objections must be noted / Must be Tagged* (**All exhibits must be marked before the first day of trial. Tags are available from the Trial Clerk or Room 150 in the Orange County Courthouse.*)
4. DEMONSTRATIVE AIDS: Must be Exchanged / Must be Initialed / Must be Marked / Must agree to use in opening or obtain prior (before the day of trial) court order allowing use. *This includes Power Point Slides!*
5. MEDIATION: Held? Yes / No; If "no," is mediation scheduled? Yes / No
Is settlement Still a Possibility? Yes / Maybe / No
6. DEPOSITIONS, INTERROGATORIES & REQUEST AND RESPONSES TO ADMISSIONS: If they are to be shown or used for impeachment:
- Copies: Bring two (2) hard copies of any deposition to be used to court.
 - Designations/Cross Designations: Must be disclosed in writing (pages/lines) within the following time frame:
 - By the party offering the testimony: 4 days after pretrial.
 - Cross Designations in response to the designations: 8 days after pretrial.
 - Objections: Objections to portions of depositions must be called up, set for

hearing, and ruled upon no later ten (10) days after the pretrial.

7. STIPULATIONS, ADMISSIONS, AGREEMENTS AND WAIVERS: Must be in writing.
8. MOTIONS IN LIMINE: Must be filed before Pre-trial and HEARD BEFORE trial week. See www.ninthcircuit.org for Division 37's Standing Order on Procedures for Motions in Limine.
9. Case set for trial period beginning _____.
10. TRIAL BRIEFS: If jury trial, not required. If non-jury trial, hard copies must be delivered to Judge's Chambers as well as a copy emailed in Word to Chambers, or in the alternative, provided on a flash drive at least three (3) business days before trial.
11. TIME ESTIMATES AND ALLOTMENTS:

	<i>Voir Dire</i> (if Jury Trial)	Opening Statement	Closing Argument
Plaintiff:	_____ min. / hr.	_____ min. / hr.	_____ min. / hr.
Defendant (1):	_____ min. / hr.	_____ min. / hr.	_____ min. / hr.
Defendant (2):	_____ min. / hr.	_____ min. / hr.	_____ min. / hr.
Defendant (3):	_____ min. / hr.	_____ min. / hr.	_____ min. / hr.
Defendant (4):	_____ min. / hr.	_____ min. / hr.	_____ min. / hr.

12. JUDICIAL NOTICE: Please follow the Evidence Code Fla. Stat. 90.201 - 207.
13. AV EQUIPMENT: If you will need audio/video assistance during trial, please complete the online "A/V Request Form" on the Court's website www.ninthcircuit.org under "Services" and then "Technology Support."
14. WITNESS DISCLOSURE: Each attorney will advise opposing counsel of the next day's witnesses at the end of each day.
15. PENDING MOTIONS AND POSSIBLE DISCOVERY ISSUES:

(1)

(2)

(3)

(4)

16. EXPERT OPINIONS: Not admissible if not expressed in Expert Report or at Deposition
(unless noneprovided or deposition not taken).
17. JURY INSTRUCTIONS / VERDICT FORMS: Proposed jury instructions and verdict forms must be submitted both in hard copy to chambers and electronically in *Word* to the Judicial Assistant at 37orange@ninthcircuit.org no later than seven (7) days before the start of the trial with the deadline set in Courtas _____.
18. VOIR DIRE: Preemptory challenges (3 per party). Total # of challenges: _____; Venire size: _____; Alternates (#): _____
19. SPECIAL PROVISION OR CONCERNS:

20. _____ AMENDED NINTH JUDICIAL CIRCUIT COURTROOM DECORUM POLICY:
All attorneys are expected to have read and become familiar with these policies, which can be found on Division 37's page at www.ninthcircuit.org.

SIGNATURES:

Attorney(s) for Plaintiff(s)

_____ for
_____ (1)

_____ for
_____ (1)

Attorney(s) for Defendant(s)

_____ for
_____ (1)

_____ for
_____ (2)

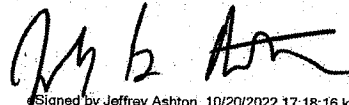
_____ for
_____ (3)

DO NOT WRITE BELOW THIS LINE

Tentative date set for
trial: _____ #
_____ ;

May be on standby for earlier call; if on stand-by, check with Counsel on cases before you or email the Judicial Assistant at 37orange@ninthcircuit.org All trial dates unless otherwise noted on the trial order start at 9:30 a.m. in Courtroom 18-C.

DONE and ORDERED this _____ day of _____,
20 _____.



Signed by Jeffrey Ashton 10/20/2022 17:18:16 kwuuHgtQ

Jeffrey L. Ashton
Circuit Judge