

## **RULE 32 - CONFERENCE OF PARTIES AND THEIR REPORT; PRETRIAL CONFERENCE AND PROCEDURES**

### **Conference of Parties; Planning for Discovery**

- 32.1** Except in categories of proceedings exempted from the Pre-Trial Conference process under Rule 31.5, or when otherwise Ordered, the parties in every case must, as soon as practicable and in any event no later than one hundred-twenty (120) days after the Pleadings have closed, confer to consider the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the case, to make or arrange for the disclosures of expert witnesses, and to develop a proposed discovery plan that indicates the parties' views and proposals concerning:
- (A) what should be the timing, form, or requirement for disclosures of experts, including a statement as to when disclosures were made or will be made;
  - (B) the subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused upon particular issues;
  - (C) what changes should be made in the limitations on discovery imposed under the Ohio Rules of Civil Procedure or by these local rules, and what other limitations should be imposed; and
  - (D) any other orders that should be entered by the Court under the Civil Rules.
- 32.2** The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference, for attempting in good faith to agree on the proposed discovery plan, and for submitting to the Court within fourteen (14) days after the conference a Written Report outlining the plan. The Court will thereafter schedule an **initial pretrial conference**. A copy of the **mandatory form** is attached herewith as **Form 1 of Appendix A of Local Rule 31**. It must be completed in such format unless otherwise Ordered by the Court.

### **Initial Pretrial Conference**

**32.3** The Court shall, after receiving the report from the parties under Rule 31.1, or after consulting with the attorneys for the parties and any unrepresented parties by a pretrial conference, telephone, mail, or other suitable means, enter a Initial Pretrial Order that limits the time

- (A) to join other parties and to amend the pleadings;
- (B) to file motions; and
- (C) to complete discovery.

The Initial Pretrial Order may also include:

- (D) modifications of the times for disclosures and of the extent of discovery to be permitted;
- (E) the date or dates for conferences before trial, a final pretrial conference including a referral to Mediation and/or Settlement Conference if appropriate, and trial; and
- (F) any other matters appropriate in the circumstances of the case.

**32.4** The Order shall issue as soon as practicable after the Court receives the report. A schedule so established shall not be modified except upon a showing of good cause and by leave of the Court or, when authorized by Local Rule or by the Civil Rules.

### **Pretrial Conference**

**32.5** All civil cases, excepting domestic relations cases, administrative appeals, land sale proceedings, and adoptions may be assigned for an additional pretrial conference at which the attorneys for all parties shall be present. Notice of the date and time of the pretrial conference shall be given to counsel by the Clerk of the Court in this Court's order issued pursuant to Rule 31.3, or as the Court may otherwise direct.

**32.6** The failure of the Plaintiff's counsel to participate in said conference and/or make a good faith effort to agree upon and submit a proposed discovery plan for submission to the Court as provided for in this Rule may constitute grounds for the dismissal of the action without prejudice and at the costs of the Plaintiff.

- 32.7** The failure of Defendant's counsel to participate in said conference and/or make a good faith effort to agree upon and submit a proposed discovery plan for submission to the Court as provided for in this Rule may result in the approval of the discovery plan submitted by Plaintiff's counsel.
- 32.8** The failure of the Plaintiff's counsel to appear for the Pretrial Conference or to submit the Final Pre-Trial Order, in accord with Rule 31.10, may constitute grounds for the dismissal of the action without prejudice and at the costs of the Plaintiff.
- 32.9** The failure of Defendant's counsel to appear for the Pretrial Conference or to submit the Final Pretrial Order, in accord with Rule 31.10, will result in the approval of the Final Pretrial Order submitted by Plaintiff's counsel.
- 32.10** The Final Pretrial Order shall be prepared by counsel for the parties, signed by said counsel, and filed as **one unified order** on a date certain, which date shall be set by the Court at the Pretrial Conference. A copy of the **mandatory form** is attached herewith as **Form 2 of Appendix A of Local Rule 31**. It must be completed in such format unless otherwise Ordered by the Court.
- 32.11** Counsel for the parties shall attend the Pretrial Conference as scheduled by the Court. The amicable disposition of the case by settlement will be one of the subjects to be considered and counsel should be prepared to discuss settlement.

STATE OF OHIO, COUNTY OF BELMONT  
PROBATE AND JUVENILE COURT

Plaintiff,

Case No.

JUDGE Albert E. Davies

Vs.

Defendant

**REPORT OF PARTIES**

1. Pursuant to Local Rule 32.1, a meeting was held on \_\_\_\_\_, 20\_ at \_\_\_\_\_ a.m./ p.m. and the following were present:

\_\_\_\_\_, Attorney For Plaintiff \_\_\_\_\_

\_\_\_\_\_, Attorney For Plaintiff \_\_\_\_\_

\_\_\_\_\_, Attorney For Plaintiff \_\_\_\_\_

\_\_\_\_\_, Attorney for Defendant \_\_\_\_\_

\_\_\_\_\_, Attorney for Defendant \_\_\_\_\_

\_\_\_\_\_, Attorney for Defendant \_\_\_\_\_

\_\_\_\_\_, Attorney for Defendant \_\_\_\_\_

\_\_\_\_\_, Attorney for Defendant \_\_\_\_\_

2. Recommended Cut-Off Date for filing any Motion to Amend the Pleadings and/or to add parties: \_\_\_\_\_

3. Recommended Discovery Plan:

A. Describe the subjects on which Discovery is to be sought and the nature and extent of Discovery that each party needs to: (1) make a Settlement evaluation, (2) prepare for case Dispositive Motions and (3) prepare for Trial:

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B. What changes should be made, if any, in the limitations on Discovery imposed under the Ohio Rules of Civil Procedure or the Local Rules of this Court:

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C. Additional recommendations or limitations on Discovery:

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D. Describe area in which expert testimony is expected and indicate whether each expert will be specially retained within the meaning of the Ohio Rules of Civil Procedure:

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E. Recommended date for Plaintiff's Expert Designation(s):

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F. Recommended date for Defendant's Expert Designation(s):

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G. Recommended discovery cut-off date: \_\_\_\_\_

4. Recommended Dispositive Motion date: \_\_\_\_\_

5. Recommended date for a Status Conference (if any): \_\_\_\_\_

6. Recommended date for a Final Pre-Trial Conference: \_\_\_\_\_

7. Has a settlement demand been made? Yes/No A response? Yes/No

Date by which a Settlement Demand can be made: \_\_\_\_\_

Date by which a Response can be made: \_\_\_\_\_

8. The earliest Settlement Conference or Mediation referral reasonably likely to be productive is: \_\_\_\_\_

9. Other matters for the attention of the Court: \_\_\_\_\_

Signatures:

Attorney(s) for Plaintiff(s):

Attorney(s) for Defendant(s):

\_\_\_\_\_  
(Ohio Bar # \_\_\_\_\_)  
Trial Attorney for Plaintiff

\_\_\_\_\_  
(Ohio Bar # \_\_\_\_\_)  
Trial Attorney for Defendant

\_\_\_\_\_  
(Ohio Bar # \_\_\_\_\_)  
Trial Attorney for Plaintiff

\_\_\_\_\_  
(Ohio Bar # \_\_\_\_\_)  
Trial Attorney for Defendant

\_\_\_\_\_  
(Ohio Bar # \_\_\_\_\_)  
Trial Attorney for Plaintiff

\_\_\_\_\_  
(Ohio Bar # \_\_\_\_\_)  
Trial Attorney for Defendant

State of Ohio/County of Belmont  
Probate and Juvenile Division

\_\_\_\_\_  
Vs Plaintiff (s)

**FINAL PRETRIAL ORDER**

\_\_\_\_\_  
Defendant (s)

Case No.: \_\_\_\_\_

This action came before the Court on \_\_\_\_\_ at a Final Pre-Trial Conference pursuant to Rule 16 of the Ohio Rules of Civil Procedure and Local Rule 31.

Attorney (s) for Plaintiff (s): \_\_\_\_\_ (Of Record)  
\_\_\_\_\_

Attorney (s) for Defendant (s): \_\_\_\_\_ (Of Record)  
\_\_\_\_\_

**ACTION/JURISDICTION**

This is an action for \_\_\_\_\_ and the jurisdiction of this Court ( is / is not ) disputed.

**TRIAL INFORMATION**

1. **Trial Date** has been set for \_\_\_\_\_ **at 9:00 a.m.**  
**All parties and their counsel shall report to the Court on the date of the Trial at 8:45 a.m.**
2. The estimated length of Trial is ( 1 2 3 ) days.
3. The **Trial** shall be held **before (the Court / a Jury)**.

**DISCOVERY**

Discovery deadline is \_\_\_\_\_. The discovery deadline pertains to discovery of all lay witnesses, the Court understanding that Experts, who have been identified, may be deposed closer to the Trial date.

1. **WRITTEN DISCOVERY** - Plaintiff (s) first set of **Interrogatories and Request for Production of Documents** to Defendant (s) was **filed** on \_\_\_\_\_. **Defendant (s) Answers and Responses** were **filed** on \_\_\_\_\_. **Defendant (s) Interrogatories and Request for Production of Documents** to Plaintiff (s) was **filed** on \_\_\_\_\_. **Plaintiff (s) Answers and Responses** were **filed** on \_\_\_\_\_. With notification to the Court, the parties are at liberty to agree to vary the time tables of discovery set forth in this Order, provided the same does not delay the date for Dispositive Motions, or the Trial Date of \_\_\_\_\_.
  
2. **DEPOSITIONS** –  
  
Depositions of \_\_\_\_\_ shall be taken by the Defendant (s) on \_\_\_\_\_.  
  
Depositions of \_\_\_\_\_ shall be taken by the Plaintiff (s) on \_\_\_\_\_.
  
3. **PRODUCTION OF DOCUMENTS** - Counsel for Plaintiff(s) shall submit to Counsel for Defendant (s) copies of all reports, records, bills and any other evidence anticipated to be used at Trial in support of Plaintiff (s) claim (s) in a sufficient time frame to enable Defendant (s) to obtain necessary independent evaluations and/or to review such documents to determine settlement options. If Counsel for Plaintiff (s) is unable to provide this information in response to Interrogatories directed to Plaintiff (s) or requests for production of documents directed to Plaintiff (s) within the time allowed for response, the Plaintiff (s) (are / is) under an obligation to secure said information through any means necessary, including use of depositions to enable Defendant(s) to be prepared for Trial on the date scheduled herein. In the alternative, Plaintiff (s) may provide release authorizations to Defendant (s), allowing Defendant (s) to obtain copies of all documents, if such authorizations are utilized, Defendant(s) shall provide copies of



such documentation to Plaintiff (s) at Defendant (s) expense.

### **DISPOSITIVE MOTIONS**

All parties are granted leave to file Dispositive Motions, including Motions for Summary Judgment, without additional leave of Court, provided, however, **all Dispositive Motions** are to be **filed by** \_\_\_\_\_.

### **STATEMENTS/LISTS**

**Plaintiff** (s) Claim (s) are to be set out in a brief summary (without detail). An itemized statement of special damages must be included or be subject to exclusion at Trial.

**Defendant** (s) Claim (s) are to be set out in a brief summary (without detail). **All other parties'** claims are to be set out in the same type of statement where third parties are involved.

1. Uncontroverted Facts - The following facts are established by admission in the pleadings or by stipulations of counsel. (Set out uncontroverted or uncontested facts.)
  
2. Issues of Fact and Law - Contested Issues of Fact remaining for decision are: (set out) Contested Issues of Law in addition to those implicit in the foregoing issues of fact, are: (set out) OR there are no special issues of law reserved other than those implicit in the foregoing issues of fact.

### **LAY WITNESSES**

In the absence of reasonable notice to opposing counsel to the contrary, **Plaintiff** (s) **will call** or **will have available at Trial:** (list)

OR

**Plaintiff** (s) **may call:** (list)

In the absence of reasonable notice to opposing counsel to the contrary, **Defendant(s)** **will call** or **will have available at Trial:** (list)

OR

**Defendant** (s) **may call:** (list)

A final witness list shall be prepared with the names and addresses of all witnesses (including those not previously known to counsel and discovered after discovery cut-off dates and

determined necessary to be used) shall be disclosed to opposing counsel immediately upon discovery, but in no event later than fifteen (15) days prior to Trial. Failure to identify a witness (es) as required herein shall preclude the testimony of such witness (es) except for good cause shown to the Court. **(This is a final witness list and witnesses not expected to testify shall not be included thereon.)**

There is reserved to each party the right to call such Rebuttal Witness (es) as may be necessary, without prior notice thereof to the other party.

### **TESTIFYING EXPERT WITNESSES**

**Plaintiff** (s) is limited to \_\_\_\_\_ Expert Witnesses expected to testify at Trial (including treating physicians, if applicable) whose names have been disclosed to opposing counsel. Such Experts shall be identified on or before \_\_\_\_\_.

**Defendant** (s) is limited to \_\_\_\_\_ Expert Witnesses expected to testify at Trial (including treating physicians, if applicable) whose names have been disclosed to opposing counsel. Such Experts shall be identified on or before \_\_\_\_\_.

**Written Reports**, if any, and curriculum vitae shall be exchanged between parties as soon as available after identification of Experts. In the event a written Expert's report is unavailable, the party expecting to call that Expert at Trial shall clearly state in writing, in a most concise and complete detail, the subject matter upon which said Expert is expected to testify. This requirement does not preclude additional discovery pursuant to Civil Rule 26 (B)(4).

### **SUBROGATION**

If subrogation claims for payment of (medical) expenses have been made against Plaintiff (s), **IT IS ORDERED**, that Plaintiff (s) shall undertake efforts to resolve those claims without the necessity of joining the entities claiming to hold rights of subrogation as parties to this action. In the event said claims are not resolved by \_\_\_\_\_, Plaintiff (s) is Ordered to file an Amended Complaint joining said entities as parties to this action.

Plaintiff (s) is Ordered to provide Defendant (s) with the names and addresses of any entity who may have a claim based upon subrogation and if an agreement is reached by and between Plaintiff and entities holding subrogation rights, Plaintiff (s) shall be Obligated to resolve subrogation matters in the event of Judgment or Settlement of Plaintiff (s) Claim (s), and shall hold Defendant (s) harmless from such claim (s).

### **EXHIBITS**

**All exhibits** that are intended **to be used at Trial, shall be pre-marked and exchanged** with opposing counsel, are to be filed with the Court \_\_\_\_\_ days prior to Trial. Each party shall prepare and submit to the Court a typed Exhibit List (identified by an appropriate

number or letter) \_\_\_\_\_ days prior to Trial. **Failure to pre-mark or identify any exhibit shall be subject to exclusion at Trial.** No objection as to the admissibility of any exhibit for any reason will be entered at Trial unless (a) the document was provided to opposing counsel as Ordered; or (b) the party opposing the introduction of the exhibit files a written objection to the introduction one (1) day prior to trial, setting forth particular legal objections raised. Except for good cause shown, the Court will not permit the introduction of any exhibits unless they have been listed in accord with the provisions of this Pre-Trial Order, with the exception of exhibits to be used solely for the purpose of impeachment.

### **DEPOSITIONS/INTERROGATORIES**

Testimony by deposition of any witness (es) intended to be used at Trial shall be taken in a sufficient time frame to allow the transcripts of said testimony to be filed \_\_\_\_\_ days prior to Trial in order to enable the Court to Rule upon objections without delaying the Trial. Identity of the witness (es) shall be offered by (**deposition / videotape**). **Transcripts of depositions not filed by \_\_\_\_\_ (date) shall not be permitted to be used as evidence.** Use of depositions and/or interrogatories for the sole purposes of impeachment need not be filed prior to Trial.

### **SETTLEMENT ISSUES**

The parties (have / have not) entered into “good faith” settlement negotiations.

Counsel is instructed to telephone the Court to set a date and time for a Settlement Conference, which is to occur during the month(s) of \_\_\_\_\_ / \_\_\_\_\_, \_\_\_\_\_. Subject to leave of Court, the parties or an agent of the parties (other than counsel) who is authorized to enter into meaningful settlement negotiations shall be present for the Settlement Conference. Counsel is instructed to provide the Court with copies of all depositions, (medical) reports, written reports of (medical) experts, (Independent Medical Examinations), compilations of (medical) specials, bills, lost wages, future projected damages (if any) and all other documents pertinent to settlement issues one (1) week prior to the scheduled Settlement Conference.

If settlement occurs at such a time that the Court is not able to call off a Jury panel which is required to be paid, the Court will assess those costs to either the party who was responsible for the late settlement or to both parties if the Court determines that both parties were responsible for the late settlement.

### **JURY INSTRUCTIONS**

Counsel shall file a proposed Charge on all anticipated issues \_\_\_\_\_ days prior to Trial. There is reserved to Counsel the right to submit supplemental requests for instructions during Trial, or at the conclusion of the evidence, on matters that cannot be reasonably anticipated.

**JURY VIEW**

A jury view (is / is not) requested.

**MOTIONS IN LIMINE**

All Motions in Limine are to be filed \_\_\_\_\_ days prior to Trial, unless a shorter time is approved by the Court.

**APPLICABLE STATUTORY OR CASE LAW**

All parties will set forth the statutory and/or case law applicable to the issues.

**PROTECTIVE ORDERS**

Before the Court will grant a Motion for Protective Order, the parties must confer and seek to resolve the matter without Court intervention.

**MODIFICATION**

This Final Pre-Trial Order may be modified at the Trial or prior thereto, to prevent manifest injustice. Such modification shall be made by application of counsel or by the Court's own motion.

**MEDIATION**

Mediation may/may not be appropriate in this matter.

**ADDITIONAL ACTION**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**Judge Albert E. Davies**

\_\_\_\_\_  
ATTORNEY FOR PLAINTIFF (S)

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT (S)