

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

CASE NO. 2011- CA 1589-O
CIVIL DIVISION 37

YVONNE WIEDERHOLD, as Persona
Representative of the Estate of RICHARD E.
WIEDERHOLD, deceased,

Plaintiff(s),

vs.

DOMINO'S PIZZA, LLC, a Michigan Limited
Liability Company,

Defendant(s).

**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 can be set for trial, it is **ORDERED** as follows:

1. **FAMILIARITY WITH THIS ORDER.** Counsel and pro se (unrepresented) parties shall read this order, be familiar with its contents and comply with its requirements.
2. **TRIAL DATE.** This case is set for jury trial on the **three (3) week trial docket beginning MAY 28, 2019 at 9:00 a.m. in COURTROOM 10A, ORANGE COUNTY COURTHOUSE, 425 N. ORANGE AVE., ORLANDO, FLORIDA, 32801.**

Length of time currently estimated for trial is **6 DAYS.**

3. **PRE-TRIAL CONFERENCE.** Counsel who will try the case and pro se parties shall attend a pre-trial/scheduling conference on **APRIL 8, 2019 at 9:00 a.m., in Hearing Room 800.02. THERE ARE NO TELEPHONIC APPEARANCES AT PRETRIAL CONFERENCE. THEREFORE, ALL APPEARANCES SHALL BE IN PERSON.**
4. **REFERRAL TO MEDIATION; DEADLINE.**
 - (a) This case is hereby referred to mediation. The parties will agree upon a mediator and a date for the first mediation conference. Counsel for plaintiff will submit a proposed mediation order.

- (b) MEDIATION SHALL BE COMPLETED PRIOR to Pre-Trial Conference.
- (c) Any party may move to defer or dispense with mediation upon good cause shown.

5. **EXCHANGE OF WITNESS LISTS AND EXHIBIT SCHEDULES.** Not later than **sixty (60) days before the pre-trial conference**, attorneys and pro se parties shall serve upon each other (but not file) the following:

- (a) **LIST OF ALL WITNESSES** - (including known impeachment and rebuttal witnesses) which the party might call at trial. The list **shall** contain the name, address and telephone number of the witness and whether the witness is a liability or damage witness. See §9 on Expert Witness Disclosures.
- (b) **SCHEDULE OF ALL EXHIBITS** which a party may offer at trial numbered sequentially. The schedules will include all depositions to be offered in evidence at trial. Parties must list exhibits with specificity. For example, listing “all medical records” is insufficient.
- (c) **OBJECTIONS** All objections to witnesses and exhibits must be heard prior to the day of Pre-Trial Conference.

6. **REQUIREMENTS PRIOR TO PRETRIAL CONFERENCE.**

- (a) **DEPOSITION DESIGNATIONS** no later than **30 days prior to Pre-Trial Conference**, each party shall serve his, her, or its **designation of depositions**, or portions of depositions, each intends to offer as testimony in his, her or its case in chief. No later than **20 days prior to Pre-Trial Conference**, each opposing party shall serve his, her or its **counter** (or “fairness”) **designations** to portions of deposition designations.
- (b) **DEPOSITION OBJECTIONS** The Court strongly encourages parties to designate/disclose as soon as possible, what portions of depositions they intend to use at trial. Upon Motion and Notice by either party, the Court can rule on any objection **before** the day of pre-trial. Editing video during trial can be difficult, time consuming and costly. Delays in seeking a ruling by the Court on objections may result in exclusion of video and require reading of deposition transcript at trial.
- (c) **OBJECTIONS** All objections to deposition designations/counter designations must be heard prior to the day of Pre-Trial Conference.
- (d) **MEETING OF ATTORNEYS, AND PRO SE PARTIES.** No later than **fifteen (15) days prior to the pre-trial conference**, counsel who will try the case, and pro se parties, if any, shall meet together. Attendance at this meeting is mandatory. Plaintiff’s attorney (or if plaintiff is pro se, defendant’s attorney) shall arrange a mutually agreeable time, date and place for this meeting.

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

1. Discuss and attempt to settle the case.
2. **Produce, examine and initial on back every evidentiary exhibit** intended to be offered at trial (large number of exhibits should be Bates stamped and attorneys can initial last page indicating page numbers reviewed); agree on those which can be admitted as joint exhibits, those which can be admitted without objection, and identify those to which objection will be made and the grounds of each objection, and note this on a separate copy of each party's exhibit schedule. Objections not reserved or grounds not noted on such separate schedule will be deemed waived at trial. The annotated separate copies of the schedules will be attached to and made a part of the joint pre-trial statement required. See §6(e) of this order.
3. Review the witness lists and in good faith note on a separate copy which witnesses and depositions will actually be used at trial. The annotated separate copies of the witness list will be attached to the joint pre-trial statement required. See §6(e) of this order.
4. Discuss and stipulate as to those facts which will require no proof at trial.
5. Discuss, clarify and frame all factual issues of fact to be tried.
6. Identify all issues of law, procedure or evidence to be decided by the Court prior to or during trial.
7. Agree upon and draft a concise but complete statement of the case to be read by the judge at the beginning of voir dire.
8. Discuss the proposed jury instructions (preliminary through closing) and verdict forms. Discuss whether you want the Court to instruct the jury on the law at the beginning of the case and before final arguments. For Standard Jury Instructions – Civil Cases go to www.floridasupremecourt.org.
9. Attempt to agree upon the number of peremptory challenges.
10. Discuss and attempt to agree upon any other matters which will lead to a more orderly and expeditious trial, e.g., copies in lieu of originals, witnesses out of turn, which portions and how depositions will be presented, how collateral set-off will be handled, etc.
11. Demonstrative Aids – Parties are strongly encouraged to exchange Demonstrative Aids (including presentation boards; models; picture video/computer presentations; reenactments and animations) in advance of trial in the event an objection is sustained and modifications are required.

(e) **JOINT PRE-TRIAL STATEMENT.** Following the meeting of attorneys, plaintiff's attorney (or defendant's attorney, if plaintiff is pro se) **shall prepare** and present to opposing counsel and pro se parties **a proposed joint written pre-trial statement. The statement shall be signed by all attorneys and pro se parties** and the original and one copy delivered to the judge **no later than the pre-trial conference.** To the extent the parties differ as to how portions of the statement should read, the differing views should be set forth in the statement.

The pre-trial statement will contain the following items in the following format:

1. A statement of the case to be read to the jury at the beginning of voir dire.
2. A statement of facts which are admitted and may be read in evidence at trial as a stipulation of counsel.
3. Issues of fact to be tried (framed as they would be set forth in an interrogatory verdict).
4. Issues of law, procedure or evidence to be determined by the Court prior to or during trial.
5. The annotated copy of each party's witness list will be attached.
6. The annotated copy of each party's schedule of exhibits showing objections and grounds will be attached.
7. The number of peremptory challenges agreed upon or requested.
8. A current estimate of the number of days required for trial.
9. A specification of the damages claimed by each party.
10. Announcement of the name of the particular member or associate who will try the case. No change of such designated trial counsel shall be made without leave of the Court, if such change will interfere with the trial schedule.
11. List of all outstanding motion(s) and date/time of the hearing(s) or statement whether each motion(s) is/are waived/withdrawn/moot.
12. Any other matters agreed to by counsel or which need to be addressed by the Court at pre-trial conference.

7. **DISCOVERY CUT-OFF DEADLINE.** All discovery shall close on the day prior to the pre-trial conference unless extended by Court order for good cause shown. This means all depositions and CME's with reports will be completed, and answers to interrogatories, responses to request to produce and requests for admissions of fact will be due before the closure date. Joint Stipulations without Court order are not sufficient to modify the discovery cut-off deadlines.
8. **MOTIONS CUT-OFF DEADLINE.**
- (a) All motions for summary judgment or judgment on the pleadings and all hearings related to discovery, must be filed and scheduled for hearing to be held **prior** to the pre-trial conference date.
- (b) All motions in limine or to exclude witnesses or evidence or other motions directed to the conduct of the trial for which grounds then exist **must be filed** and copies delivered to opposing counsel **prior to the pre-trial conference**. Motions in Limine may not be scheduled for a hearing **unless** they contain a certification of good faith attempt to resolve matter without Court action. Notice of Hearings on Motions in Limine must specifically identify the specific issues which remain in controversy after counsel has conferred. 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 being shown.**
9. **EXPERT WITNESSES; DISCLOSURE; DEADLINES; TESTS EXAMINATIONS AND EXPERIMENTS; LIMITATION ON NUMBER AT TRIAL.**
- (a) **Not later than 120 days before the date of the pre-trial conference**, plaintiff(s) shall disclose all expert witnesses that in good faith plaintiff(s) actually intends to call at trial.
- (b) **Not later than 105 days before the date of the pre-trial conference**, defendant(s) shall disclose all expert witnesses that in good faith defendant(s) actually intends to call 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.
- (d) Any additional experts will only be permitted to be listed upon stipulation or leave of court for good cause shown.
- (e) **As a party discloses expert(s), it shall give in writing three (3) available deposition dates for each expert.** Opposing Counsel shall select one of the provided dates within five (5) business days from receipt of disclosure or must request new dates. The depositions of all experts must be completed **no later than 30 days prior to the pre-trial conference**. Experts will be made available for deposition by the party retaining them without necessity of subpoena.

(f) All out-of-court testing, experiments or physical or mental examinations will be completed by an expert prior to the expert's deposition unless leave of Court is obtained for completion after deposition.

(g) The parties may supersede sub-paragraphs (a) through (f) upon Motion and Court Order.

(h) The Court may limit the number of experts at trial.

10. **TRIAL BRIEFS.** Trial briefs are optional but if one is to be filed, the original should be filed and chamber's copy delivered not later than five (5) working days before trial is to commence. Highlighted copies of primary legal authorities cited must accompany the chamber's copy and opposing party's copy.
11. **NOTIFICATION OF SETTLEMENT.** The parties will notify the Judge's judicial assistant **immediately by email** upon the case being settled and fax/email a Notice of Settlement signed by both parties prior to the Trial being removed from the docket.
12. **JURY INSTRUCTIONS.** Unless otherwise directed by the Judge, the parties will exchange proposed jury instructions and verdict forms no later than **three (3) working days before the Pre-Trial Conference.** At the Pre-Trial Conference, plaintiffs' counsel will hand to the judge a set of those instructions (and verdict forms) and identify any in dispute. This set shall include the Supreme Court Jury Instruction numbers. **The final set for the jury** will have the style of the case; heading stating "Jury Instructions" and the instructions will follow 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. Email JA for exemplars if needed.
13. **MODIFICATION OF ORDER FOR GOOD CAUSE.** The provisions of this order, including any time limits, and the joint pre-trial statement, witness lists and evidence schedules attached to it may be modified by Court order based upon motion showing good cause.
14. **SANCTIONS.** Unexcused failure of counsel or unrepresented party to attend the meeting of attorneys required in paragraph 6 (d), the pre-trial conference or trial or to comply with the requirements of this order will subject offending counsel or party to appropriate sanctions, which may include contempt, dismissal, default, striking of pleadings, exclusion of evidence, assessment fees or costs, and/or other sanctions.
15. **DIVISION 37 GUIDELINES.** A copy of Orange Civil Division 37 Guidelines and Procedures and Guidelines for Counsel Regarding Compulsory Medical Examinations are available on line http://www.ninthcircuit.org/judges/circuit_judges/keith-carsten or email the Judicial Assistant (ctjadh1@ocnjcc.org) for copies. All counsel are charged with reading and being familiar with the contents thereof and complying therewith.

16. **SUMMARY OF DEADLINES.** For scheduling purpose only, see attached Summary of Deadlines.

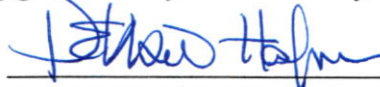
DONE AND ORDERED in Orlando, Florida this 17th day of July, 2018.



KEITH A. CARSTEN, Circuit Judge
Division 37

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed with the Clerk of the Court this 17th day of July, 2018 by using the Florida Courts E-Filing Portal System. Accordingly, a copy of the foregoing is being served on this day to all attorney(s)/interested parties identified on the ePortal Electronic Service List, via transmission of Notices of Electronic Filing generated by the ePortal System.



DEBBIE HAFNER, 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, Court Administration, Orange County Courthouse, 425 N. Orange Avenue, Orlando, FL 32801, (407-8362303) 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.

SUMMARY OF DEADLINES

Mediation shall be completed **prior to Pre-Trial Conference.** (§4b)

Plaintiff's Expert Witness list with deposition dates, due **120 days prior to Pre-Trial Conference.**
(§9a and §9e)

Defendant's Expert Witness list with deposition dates, due **105 days prior to Pre-Trial Conference.**
(§9b and §9e)

Exchange of Witness Lists and Exhibit Schedules - **60 days before date of Pre-Trial Conference.** (§5)

All Expert Depositions completed no later than **30 days prior to Pre-Trial Conference.** (§9e)

Hearing deadline for Objections to Witnesses, Exhibit and Deposition Designations/Counter Designations no later than **1 day prior to Pre-Trial Conference.** (§5c and §6c)

Deposition Designations completed no later than **30 days prior to Pre-Trial Conference.** Counter Designations no later than **20 days prior to Pre-Trial Conference.** (§6a)

Meeting of Attorneys **15 days prior to Pre-Trial Conference.** (§6d)

Motions for Summary Judgment and hearings related to discovery filed **and heard prior to Pre-Trial Conference.** (§8a)

Motions in Limine must be filed **prior to Pre-Trial Conference.** (§8b)
Must be heard no later than **7 days prior to first day of trial period.** (§8b)

Hearings related to discovery or trial matters filed **and heard prior to the Pre-Trial Conference.** (§8a)

Jury Instructions/Verdict forms exchanged no later than **3 days prior to the Pre-Trial Conference.** The Plaintiff to present instructions to the Judge **at the Pre-Trial Conference** and identify any in dispute. (§12)

Joint Pre-Trial Statement signed by attorneys/pro se parties due **no later than Pre-Trial Conference.**
(§6e)

Discovery Cut-Off is **1 day prior to Pre-Trial Conference.** (§7)

Trial briefs (optional) due **5 working days prior to Trial.** (§10)