

**State of Ohio/County of Belmont
Probate and Juvenile Division**

Plaintiff (s)

FINAL PRETRIAL ORDER

Vs

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 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 J. Mark Costine

ATTORNEY FOR PLAINTIFF (S)

ATTORNEY FOR DEFENDANT (S)