

Order Setting Jury Trial and Pre-trial Conference: (EXHIBIT 3)

- Add the case number and style
- Add the Pre-Trial date and time
- Add the Jury Trial date and time
- Add the Service List to page 2 and sign and date
- YOU ARE NOT AUTHORIZED TO EDIT THE REMAINDER OF THE JURY TRIAL ORDER, UNLESS BY AGREEMENT OF THE COURT

It is your responsibility to make sure all the parties are associated in JAWS before uploading to JAWS with a cover letter stating that all parties have reviewed it and approve it. If there is a Pro-Se party on the service list, you cannot upload it in JAWS, you will need to mail it to the Judge's office with sufficient copies and self-addressed stamped envelopes for everyone on the service list.

appearance is less than 7 days; if you are hearing or voice impaired, call 711.

I hereby certify that a copy of this Order has been furnished by U.S. Mail [or other approved delivery method] this _____ day of _____, 20__ to:

ATTORNEY OF RECORD

THIS CAUSE being at issue and the Court being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED as follows:

PRE-TRIAL CONFERENCE

1. A Pre-Trial Conference shall be held as noticed on the preceding page.

JURY TRIAL

2. A jury trial shall be held as noticed on the preceding page.

WITNESS AND EXHIBIT DISCLOSURE

3. At least 60 days before the Pre-Trial Conference, counsel for all parties, and any unrepresented party, shall serve opposing counsel and any unrepresented party and **file directly** with the clerk:
 - a) a list of the names and addresses of all lay and expert witnesses who are expected to testify at trial, whether for substantive, corroborative, impeachment or rebuttal purposes.
 - b) In addition to names and addresses of each expert retained to give an expert opinion, the parties shall provide all information listed in Fla. R. Civ. P. 1.280(b)(5)A.i. and iii. Such information provided under Fla. R. Civ. P. 1.280(b)(5)A.iii. shall be limited to three years before the date of the Pre-Trial Conference, unless the parties agree otherwise or by order of the court. The parties shall also provide:
 1. a copy of any written reports issued by the expert regarding this case; and
 2. a copy of the expert's curriculum vitae.
 - c) a list of all exhibits which are expected to be admitted at trial whether for substantive, demonstrative, corroborative, impeachment or rebuttal purposes.
4. At least 45 days before the Pre-Trial Conference, counsel for all parties, and any unrepresented party, may serve a list of additional witnesses and exhibits as described above.

5. Witnesses and exhibits which are not listed as described above may provide testimony or be admitted at trial only upon stipulation of all parties or as allowed by order of the court **at or before** the Pre-Trial Conference.
6. At least 60 days before the Pre-Trial Conference, counsel for each defendant and any unrepresented party shall serve a list of the names and addresses of all non-parties (*Fabre defendants*) defendant intends to request the Court to include on the verdict form.

COMPLETION OF DISCOVERY

7. All depositions and discovery, including all examinations of persons conducted pursuant to Fla. R. Civ. P. 1.360, must be completed at least 45 days prior to the Pre-Trial Conference or, **if agreed to by all parties**, up to the date of the Pre-Trial Conference. All reports of any examination conducted pursuant to Fla.R.Civ.P.1.360 shall be served no later than 30 days prior to the Pre-Trial Conference. Depositions and discovery after the Pre-Trial Conference shall be permitted only as allowed by order of the court. However, the deposition of any examiner pursuant to Fla. R. Civ. P. 1.360 shall be allowed without order of court any time within 30 days of service of their report and more than 10 days prior to the date trial is scheduled to commence. Any discovery requiring a response from the adverse party must be served in time for the response to be due prior to the deadline date established herein. Unavailability of hearing times on motions prior to the Pre-Trial Conference shall not be grounds for extension of deadlines or continuation of the Pre-Trial Conference or Trial, absent exceptional circumstances, as determined by the court.
8. At the deposition of any expert witness taken within the time periods set forth in this order, all expert witnesses shall provide, and all parties shall provide all information listed in Fla. R. Civ. P. 1.280(b)(5)A.i. and iii. If the expert is not prepared to fully testify regarding such matters at a deposition scheduled no later than 45 days before the pre-trial or if a party does not provide complete information regarding such matters in answering interrogatories served no later than 45 days before the Pre-Trial Conference, the court will consider excluding the testimony of the expert at trial or, in the alternative, limit the testimony of the expert to those matters revealed at any such deposition or in answers to any such interrogatories. Pursuant to Fla. R. Civ. P. 1.280(b)(5)(C), the party seeking this discovery shall pay experts a reasonable fee for the time spent in responding to discovery and pay the responding party a fair part of the fees and expenses reasonably incurred by the responding party in obtaining facts and opinions from the expert. Objections made at expert witness depositions taken pursuant to this paragraph **must** be resolved by agreement or by properly bringing them before the court in such a manner as to not result in delay of the trial and, in any event, before the date the trial is to begin. Failure to comply with this paragraph may result in removal of the case from the trial calendar or such other sanctions as deemed appropriate by the Court. While the court is prohibited from appointing a general or special master/magistrate without the consent of the parties, the parties should feel free to agree upon a master/magistrate to resolve such objections, if hearing time before the court is not available. Any such master/magistrate shall be governed by Rule 1.490, Fla. R. Civ. P. Care must be taken to allow sufficient time for compliance with the time periods set forth in the rule.
9. DEPOSITION DESIGNATIONS. Except as set forth in paragraph 7 above, no later than 5 days prior to the Pre-Trial Conference, each party shall serve designations of depositions (video or otherwise) each party intends to offer as testimony in their case-in-chief. No later than 3 days prior to the Pre-Trial Conference, each opposing party shall serve counter designations to portions of depositions designated, together with objections to the

depositions, or portions thereof, originally designated. No later than the Pre-Trial Conference, each party shall serve their objections to counter designations served by an opposing party. All such objections **must** be resolved prior to the first day of trial or will be considered waived. Video depositions to be shown at trial must be appropriately edited **prior to the Pre-Trial Conference**. Failure to comply with this paragraph may result in removal from the trial calendar or such other sanctions as may appear appropriate.

MOTIONS

10. All motions, including motions in limine, shall be filed and served at least 3 days prior to the Pre-Trial Conference. Unless good cause exists as to why the motions were not heard previously, such motions **must** be heard prior to the first day of trial. All motions to continue or motions to allow deposition after the Pre-Trial Conference based on witness unavailability must be served prior to the Pre-Trial Conference, unless good cause exists for such failure. All motions in limine must relate to specific evidence to be offered at trial. The court will not hear or consider “boiler-plate” motions in limine. Some examples of “boiler-plate” motions in limine are motions seeking the exclusion of “golden rule” arguments in closing, motions seeking to prevent counsel from expressing personal beliefs, etc. All attorneys and all unrepresented parties are responsible for knowing the applicable rules of evidence. Any motions challenging the admissibility of expert evidence shall be heard prior to the Pre-Trial Conference. Any party seeking to exclude expert evidence shall file a motion identifying the specific basis for the challenge. All motions challenging the admissibility of expert evidence not scheduled and heard before the Pre-Trial Conference will be considered waived, absent exceptional circumstances.

TRIAL WITNESSES

11. The parties shall, **prior to the Pre-Trial Conference**, contact each witness they will call at trial to determine their availability to appear at trial.
12. A copy of the Notice titled “Notice Regarding Scheduling of Experts for Trial Testimony” attached hereto **shall be provided to any expert witness subpoenaed as an expert witness for trial, no later than 10 days prior to trial.**

PRE-TRIAL CONFERENCE

13. **Prior to the Pre-Trial Conference**, the attorneys and unrepresented parties are directed to meet together by agreement instigated by counsel for the Plaintiff, and draft one proposed Pre-Trial Conference order (using the form attached) that shall be submitted **directly** to the court (submit original and a copy for each party) prior to the Pre-Trial Conference. In the event the parties are unable to agree on any matter in the Pre-Trial Conference order, they shall leave the matter blank and the court will resolve the dispute at the Pre-Trial Conference. The parties shall also discuss the possibility of settlement, stipulate to as many facts and issues as possible, examine all exhibits and demonstrative aids (including any to be used in opening statement, unless they are completely unaltered enlargements or compilations of items already disclosed in discovery, in which case, they may be exchanged the morning the trial is to begin), review all video depositions and complete all other matters which may expedite both the Pre-Trial Conference and the Trial of this case. **This meeting is mandatory and cannot be waived by agreement of the parties. Additionally, trial counsel must attend the meeting.**
14. The court will consider all matters as may be appropriate as set forth in Fla. R. Civ. P.

1.200.

15. At the Pre-Trial Conference, each unrepresented litigant will appear with at least one of the attorneys who will participate in the trial and is authorized to make binding decisions. Any attorney or party having conflicts with the trial date set forth above must provide the court and opposing counsel/party with written notification of such conflict (including, at a minimum, the court, case number and the date any conflicting trial was set), as soon as practicable but, in no event later than the Pre-Trial Conference. **The court and opposing counsel shall be provided written notification immediately in the event any such conflicts are resolved.**
16. At the Pre-Trial Conference, counsel and unrepresented litigants shall be prepared to negotiate settlement. Counsel shall have full authority to make stipulations and to settle the case or have available by telephone, or in person, a party or representative who does have full authority to make stipulations and to settle the case.
17. Any request for a "view" must be made at the Pre-Trial Conference and included in the Pre-Trial order.
18. Any claim for statutory preference or advancement on the trial calendar not previously made **must** be made immediately and **must** be clearly stated and discussed at the Pre-Trial Conference. Failure to comply with this paragraph may be considered a waiver of any such claim.

MEETING PRIOR TO TRIAL

19. Trial counsel for the parties and all unrepresented litigants are directed to meet at least **5 days** before the commencement of trial, to:
 - a) mark all exhibits for identification and prepare a chronological exhibit list for use of clerk and court at trial (actual exhibits and documentation evidence shall be available for inspection at this time);
 - b) admit or not admit items as evidence and list specific objections, if any;
 - c) stipulate as to any matter of fact and/or law about which there is no issue, to avoid unnecessary proof;
 - d) review all depositions which are to be offered for any purpose other than impeachment, to resolve objections to the portions to be offered in evidence;
 - e) discuss the possibility of settlement;
 - f) submit an itemized statement of special damages plaintiff expects to prove;
 - g) discuss and complete any other matters which may simplify the issues or aid in the speedy disposition of this action, its Pre-Trial Conference and trial.
20. At the meeting prior to commencement of trial, each party will be represented by one of the attorneys who will participate in the trial and all unrepresented litigants. Such attorney or individual shall be vested with full authority to make all inspections, stipulations, agreements and admissions as described above.
21. **ADDITIONAL EXHIBITS, WITNESSES OR OBJECTIONS.** At trial, the parties shall be strictly limited to exhibits and witnesses disclosed and objections reserved on the schedules attached to the Pre-Trial Order, absent agreement specifically stated in the

Pre-Trial Order or order of the Court, upon good cause shown. Failure to reserve objections will constitute a waiver. A party desiring to use an exhibit or witness not disclosed when counsel conferred pursuant to paragraphs 13 and 19 of this order shall immediately furnish the Court and opposing counsel with a complete description of the exhibit or with the witness' name and address, the expected subject matter of the witness' testimony and the reason for the late discovery of the witness or exhibit. Use of the exhibit or witness may be allowed by the Court for good cause shown or to prevent manifest injustice.

22. **UNIQUE QUESTIONS OF LAW.** Prior to the Pre-Trial Conference, counsel for the parties are directed to exchange and simultaneously submit to the Court appropriate memoranda, with citations of legal authority, in support of any unique legal questions which may reasonably be expected to arise during the course of the trial.

JURY INSTRUCTIONS

23. Prior to or on the morning of the Pre-Trial Conference, the Plaintiff shall provide to the Court a complete set of proposed jury instructions and verdict form(s), with a copy to opposing counsel and any unrepresented litigant. The Defendant(s) shall provide only special instructions or those standard instructions not included in the proposal submitted by Plaintiff, together with any specific objections to the instructions submitted by Plaintiff and shall do so no later than the date of the Pre-Trial Conference. All instructions submitted to the Court shall be sent in by hard copy via U.S Mail and a courtesy copy sent to the Judicial Assistant by email in Microsoft Word format, or as otherwise instructed by the court at a prior hearing. All instructions shall be in a form suitable for submission to the jury and, in the case of standard instructions, shall bear the number and title assigned in the standard instructions approved by the Florida Supreme Court. These requirements are completely separate from anything the parties intend to submit to the Clerk for purposes of any appellate record. This paragraph shall not foreclose the right of each party to seek to modify instructions up to and including the instruction conference at the close of evidence.

TRIAL

24. Counsel for the parties shall be required to bring blank notepads and advertising-free pens to trial for the jury to take notes. Jurors will be permitted to submit questions for consideration by the Court and Counsel after the completion of each witness' examination by the parties.
25. The parties shall be prepared to discuss the time required for voir dire at the Pre-Trial Conference, keeping in mind that voir dire is for selection of a fair and impartial jury, not for argument or "conditioning" the jurors. The parties should attempt to agree on a reasonable time for voir dire, however, the Court will have the final decision on the length of voir dire.
26. The parties shall be prepared to discuss the time required for opening statements at the Pre-Trial Conference. The parties should attempt to agree on a reasonable time for opening statement, however, the Court will have the final decision on the length of opening statements.
27. The parties shall be prepared to discuss the time required for closing arguments at the Pre-Trial Conference. The parties should attempt to agree on a reasonable time for

closing arguments, however, the Court will have the final decision on the length of closing arguments.

NOTICE OF SETTLEMENT

28. Counsel and unrepresented litigants shall immediately provide **written** notification to the Court in the event of settlement, and promptly submit a stipulation for an order of dismissal and a final disposition form. Written notification shall include fax transmission and email sent to the Court, with copies to all counsel. Failure to provide **written** notification of settlement to the court may result in sanctions against parties and/or counsel, including, but not limited to, fines equal to the expense incurred in summoning a jury, when a trial is not conducted.
29. All provisions of this order that require compliance by counsel are likewise applicable to any party appearing unrepresented.

SANCTIONS

30. Failure to comply with the requirements of this Order may subject counsel and unrepresented litigants to such sanctions as the court shall determine just and proper under the circumstances. Such sanctions may include, but are not limited to, striking of pleadings, dismissal of case and monetary sanctions.
31. PLEASE REVIEW THIS ORDER TO SEE THAT IT HAS BEEN SENT TO ALL PROPER PARTIES/COUNSEL, AT PROPER ADDRESSES. FAILURE TO IMMEDIATELY NOTIFY THE COURT OF ANY ERRORS MAY RESULT IN REMOVAL FROM THE TRIAL CALENDAR, ALONG WITH POSSIBLE SANCTIONS.

DONE AND ORDERED in Chambers at Clearwater, Pinellas County, Florida, this _____ day of _____, 20____.

Patricia A. Muscarella
Circuit Judge

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR (PASCO/PINELLAS) COUNTY, FLORIDA
CIVIL DIVISION**

**NOTICE REGARDING SCHEDULING OF EXPERT WITNESSES
FOR TRIAL TESTIMONY TO BE SERVED WITH TRIAL SUBPOENA**

Many different cases are set for civil jury trial by the Court on the same day at the same time. Usually all cases are scheduled to begin at 9:00 a.m. on Monday mornings. Consequently, the lawyer requesting your testimony at trial in this case will not know when during the designated trial period your testimony will be needed. It is for this reason that experts are subpoenaed for the trial period and a definite time for your testimony is rarely able to be set in advance. The expert is, therefore, placed on "standby" or "alert" status. The lawyer will periodically keep you advised as to the progress of the trial so that you will have as much advance notice as possible, hopefully resulting in a minimal disruption to your routine schedule. If you have been subpoenaed for trial and it is subsequently determined that your testimony will not be needed, the lawyer will notify you as soon as that determination has been made. If you are going to be unavailable during the trial period, you should immediately notify the lawyer subpoenaing you so that lawyer may take action he or she deems appropriate.